100TH CONGRESS
2d Session

SENATE

DOCUMENT
100-46

HISTORY OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

AS OF THE

100th Congress

1816-1988

95-788

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COMMITTEE ON ENERGY AND NATURAL RESOURCES

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100TH CONGRESS
2D SESSION

S. RES. 472

Authorizing the printing of background information relating to the Committee on Energy and Natural Resources.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14 (legislative day, SEPTEMBER 7), 1988

Mr. JOHNSTON (for himself and Mr. MCCLURE) submitted the following resolution; which was referred to the Committee on Rules and Administration

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RESOLUTION

Authorizing the printing of background information relating to the Committee on Energy and Natural Resources.

Resolved, That there be printed with illustrations as a Senate document background information relating to the history of the Senate Committee on Energy and Natural Resources in connection with its one hundred and seventy-second anniversary (1816–1988) and in observance of the Bicentennial of the United States Senate; and that there be printed for the use of the committee additional copies of such document not to exceed the cost of $1,200.

Senator J. BENNETT JOHNSTON, *Chairman*

1987–

Senator JAMES A. MCCLURE, *Ranking Minority Member*

1987-

CHRONOLOGY

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

1816-1920

Committee on Public Lands created on December 10, 1816, as one of first standing committees of the Senate

—14th Congress, 2d Session

1921-1946

Renamed *Committee on Public Lands and Surveys* on March 4, 1921, following Senate committee consolidation (S. Res. 43), acquired jurisdiction of

Committee on Geological Surveys (created 1899)

—67th Congress, 1st Session

1947

New Committee on Public Lands established after Congress adopted the Legislative Reorganization Act of 1946

—80th Congress, 1st Session

Acquired jurisdiction of the former Committees on:

Indian Affairs (created 1820)
Territories and Insular Affairs (created 1844)
Mines and Mining (created 1865)
Irrigation and Reclamation (created 1896)
Public Lands and Surveys (created 1921)

1948-1976

Renamed *Committee on Interior and Insular Affairs,* January 28, 1948 (to reflect increased scope of functions and jurisdiction)

—80th Congress, 2d Session

1977-

Renamed *Committee on Energy and Natural Resources,* February 4, 1977, following approval of S. Res. 4, the Committee System Reorganization Act

—95th Congress, 1st Session

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Standing: L to R: Senators Conrad (ND), Bingaman (NM), Fowler (GA), Bradley (NJ), Wallop (WY), Murkowski (AK), Nickles (OK), Hecht (NV), Evans (WA)

Seated: L to R: Senators Melcher (MT), Metzenbaum (OH), Ford (KY), Chairman Johnston (LA), McClure (ID), Hatfield (OR), Domenici (NM)

Members Absent: Senators Bumpers (AR), Wirth (CO) and Weicker (CT)

100th Congress, 2d Session

FOREWORD

Although the Federal Constitution does not mention committees, they were used by the First Congress. Our first lawmakers recognized the need for workable units to find facts and make policy recommendations, based on indepth study and expertise.

Today, the Congressional Committee system is at the heart of the legislative process, but in its first quarter century the Senate established only four standing committees which were more administrative than legislative.

On December 5, 1816, Mr. Barbour of Virginia introduced a resolution that 11 standing committees should be appointed to address the individual provisions of President Madison's State of the Union message.

It said, *Resolved,* That it shall be one of the Rules of the Senate that the following standing committees be appointed at each session:

A Committee on Foreign Relations
A Committee on Ways and Means
A Committee on Commerce and Manufactures
A Committee on Military Affairs
A Committee on the Militia
A Committee on Naval Affairs
A Committee on Public Lands
A Committee on Claims
A Committee on the Judiciary
A Committee on the Post Office and Post Roads
A Committee on Pensions

On December 9, 1816, this resolution was amended by changing the "Committee on Ways and Means" to a Committee on Finance. On the 10th of December, 1816, the resolution submitted by Mr. Barbour for the appointment of the 11 standing committees was passed by the Senate.

On December 13, 1816, the first five Members were assigned to the Committee on Public Lands. Mr. Jeremiah Morrow of Ohio became the first Chairman.

In one of the series of statements made to the Senate by Senator Robert C. Byrd of West Virginia on the early history of Senate committees, he states:

> The use of committees in legislative bodies antedated the First Congress. We can find records of joint committees of the House of Lords and the House of Commons in the British Parliament as early as 1340. The first standing committee of Parliament was the Committee on Privileges and Elections, dating back to the reign of the first Queen

> Elizabeth. The committee system expanded during the time of Oliver Cromwell, and eventually evolved into what has been called "that all-absorbing committee," the British Cabinet.
>
> Members of the first Senate had not only the example of parliamentary committees, but also those of the Virginia House of Burgesses and other colonial legislatures, and of the Continental Congress. It was, we may recall, a select committee of Thomas Jefferson, John Adams, and Benjamin Franklin, that drafted the Declaration of Independence. So committees were a fairly common way of doing legislative business.
>
> —*Congressional Record,* July 31, 1981

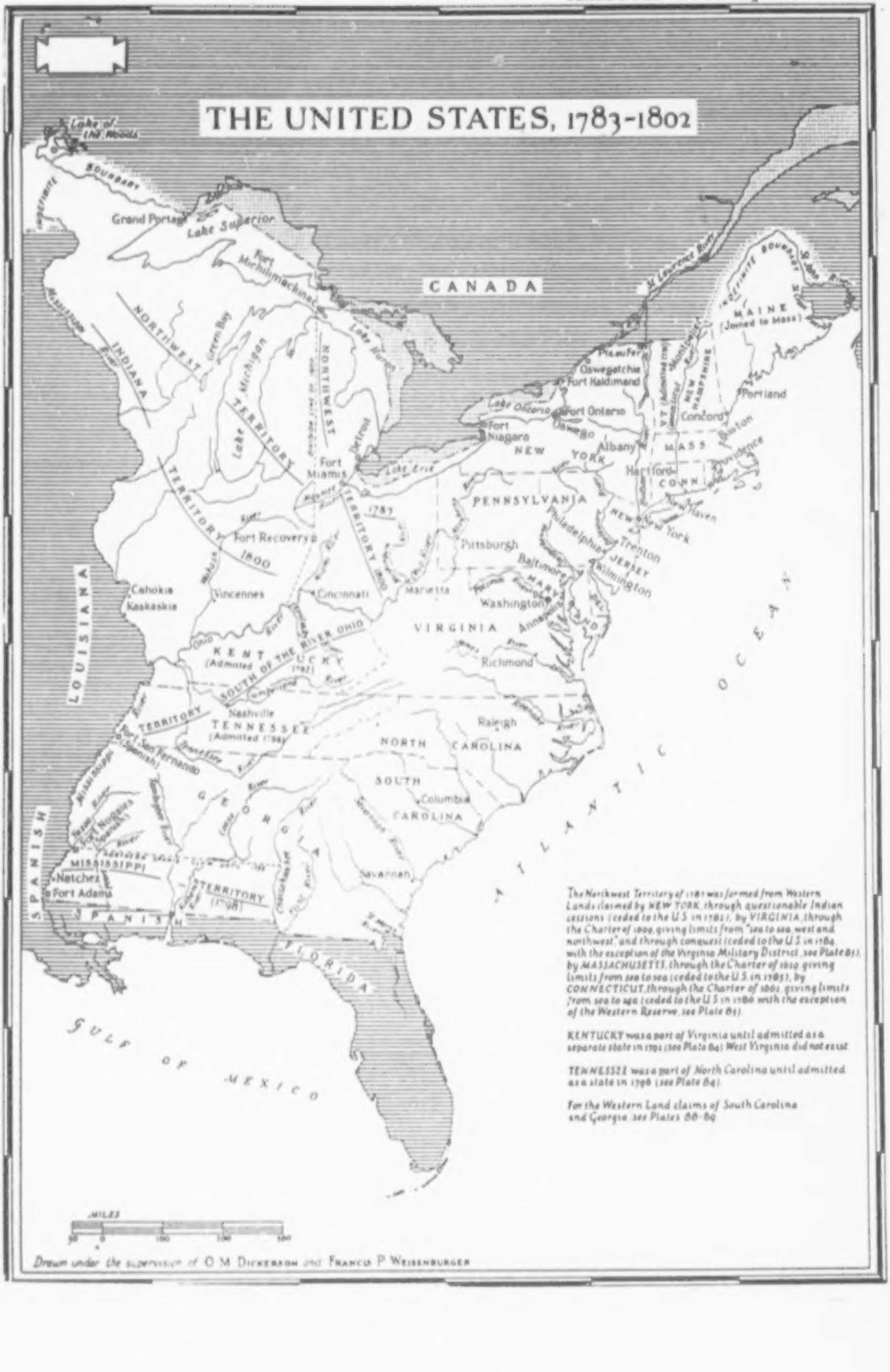
Although the standing committee system in the Senate became firmly established in the first hundred years of its existence, since that time there have been several periods of reorganization, reform and consolidation resulting in several major overhauls of the committee structure in an attempt to increase its efficiency and expertise in dealing with the ever increasing complexity of the issues being addressed.

The process of evaluating legislative proposals by Members, the Executive Branch, and the public in open hearings is an invaluable forum for informing the public and the press. In addition, committees provide oversight on legislation that has been enacted and ensuring that the intent of Congress is carried out.

A review of all the accomplishments and legislative initiatives of our Committee reflects the broad spectrum and wide range of diversity of the Committee's functions—a veritable rainbow of jurisdiction. Our Committee has long been at the center of Congressional activity and does indeed have a rich heritage of landmark legislation since its origin in 1816.

The Committee wishes to express its gratitude and appreciation to Judith Schneider, Paul Rundquist, Daphne Bigger and all others on the staff of the Government Division of the Congressional Research Service for their diligence and superlative efforts in compiling the background information for this document.

J. BENNETT JOHNSTON,
Chairman.



THE UNITED STATES, 1783-1802

Lake of the Woods
BOUNDARY
INDEFINITE
Grand Portage
Lake Superior
Fort Michilimackinac
CANADA
St. Lawrence River
INDEFINITE BOUNDARY
MAINE (Joined to Mass.)
Mississippi River
INDIANA
NORTHWEST
Green Bay
Lake Michigan
TERRITORY
NORTHWEST
Lake Huron
Detroit
Fort Miami
Lake Erie
TERRITORY 1800
Fort Recovery
1787
Presqu'Isle
Oswegatchie
Fort Haldimand
Lake Ontario
Fort Ontario
Oswego
Fort Niagara
NEW YORK
Albany
V.T. (Admitted 1791)
NEW HAMPSHIRE
Concord
Portland
Boston
MASS.
Providence
Hartford
CONN.
New Haven
New York
PENNSYLVANIA
Philadelphia
NEW JERSEY
Trenton
Wilmington
Pittsburgh
Baltimore
MARYLAND
Washington
Annapolis
Marietta
Cincinnati
Vincennes
Cahokia
Kaskaskia
LOUISIANA
Ohio River
KENTUCKY (Admitted 1792)
SOUTH OF THE RIVER OHIO
VIRGINIA
Richmond
Nashville
TENNESSEE (Admitted 1796)
TERRITORY
Fort San Fernando (Spanish)
Raleigh
NORTH CAROLINA
SOUTH CAROLINA
Columbia
GEORGIA
Yazoo River
Fort Nogales (Spanish)
MISSISSIPPI TERRITORY (1798)
Natchez
Fort Adams
SPANISH
Savannah
FLORIDA
ATLANTIC OCEAN
GULF OF MEXICO
MILES
50 0 100 200 300

The Northwest Territory of 1787 was formed from Western Lands claimed by NEW YORK, through questionable Indian cessions (ceded to the U.S. in 1782), by VIRGINIA, through the Charter of 1609, giving limits from "sea to sea, west and northwest," and through conquest (ceded to the U.S. in 1784 with the exception of the Virginia Military District, see Plate 83), by MASSACHUSETTS, through the Charter of 1629, giving limits from sea to sea (ceded to the U.S. in 1785), by CONNECTICUT, through the Charter of 1662, giving limits from sea to sea (ceded to the U.S. in 1786 with the exception of the Western Reserve, see Plate 83).

KENTUCKY was a part of Virginia until admitted as a separate state in 1792 (see Plate 84). West Virginia did not exist.

TENNESSEE was a part of North Carolina until admitted as a state in 1796 (see Plate 84).

For the Western Land claims of South Carolina and Georgia, see Plates 88-89.

Drawn under the supervision of O. M. Dickerson and Francis P. Weisenburger

INTRODUCTORY STATEMENT BY SENATOR J. BENNETT JOHNSTON, CHAIRMAN

For many months now the Congress and the Nation have been celebrating the commemoration of two very historic events. First was the 200th anniversary in the Fall of 1987 of the signing of the Constitution in Philadelphia on September 17, 1787, and the other is the bicentennial of the convening of the First Congress under the Constitution in 1789.

For its own bicentennial, the Senate established a study group in 1980 to plan for the observance of the United States Senate bicentenary in 1989. Included in their recommendations was the suggestion that all standing committees prepare or update their histories.

Some of our Members may be surprised to learn that the roots of the Committee on Energy and Natural Resources go back to one of the first standing committees appointed by the Senate—the Committee on Public Lands. Although the chronology reflects a succession of name changes, the jurisdiction of the original Committee on Public Lands has been in continuous existence for over 170 years. During the first 100 years the structure of the committee changed very little, but its jurisdiction was steadily increasing with the westward movement of the Nation and the problems of statehood and expansion.

The Louisiana Purchase

The Committee on Public Lands was created in 1816 primarily at that time to supervise the laws relating to the settlement of the Louisiana Territory.

As everyone knows, the Louisiana purchase was negotiated by President Thomas Jefferson in an offer from Napoleon for the sum of $15,000,000. President Jefferson had learned of a secret agreement in which Spain had returned the Louisiana territory to France. However, early in 1803, Napoleon urgently needed funds for his military conquests in Europe and made plans to sell the Louisiana territory instead. President Jefferson lost no time in negotiating for the 828,000 square miles consisting of the greatest and richest valley of land in the world and called a special session of Congress to inform the Senate of the treaty, which was approved by a vote of 24 to 7 on October 20, 1803.

This great land acquisition, located in the heartland of America, not only doubled the Nation's size but greatly increased the economic resources of the United States at a cost of less than 3 cents per acre for the entire territory.

Located on the first floor corridor of the Senate wing of the Capitol is a beautiful painting by the artist Constantino Brumidi entitled "Cession of Louisiana," depicting the negotiation for the purchase of the Louisiana Territory.

OPENING OF THE WEST

In 1812, the General Land Office was formed to oversee the disposition of new lands acquired along our expanding frontiers. The Treaty of 1846 with Great Britain had settled the territorial dispute in the far northwest. The American domain of the southwest was completed with the annexation of Texas in 1845, the Treaty of Guadalupe-Hidalgo in 1848 (Mexican Cession), and the Gadsden Purchase. By the end of 1853, California and the Oregon territory had all been brought under the American flag. By 1860, the population of the Nation had doubled.

The lure of ownership of lands west of the original 13 States made possible by Federal policy of land donations to anyone brave enough to take the risk led to extensive migration and many people began to move west to settle in the cheap land available there. The Homestead Act of 1862 providing for grants of acreage to settlers was the result of legislation under the jurisdiction of the Committee on Public Lands.

There is a beautiful painting located in the House wing of the Capitol by the artist Emanuel Leutze entitled "Westward the Course of Empire Takes its Way" depicting the caravans of early settlers and explorers in their covered wagons crossing the prairies and mountains to own land made possible by the Federal Government.

With the westward expansion of the Nation following the acquisition of the Louisiana Purchase, and as States and territories were added to the Union, Congress was forced to debate whether States would be admitted slave or free. The settlement of this issue would result in many bitter conflicts between sections of the Nation which would last several decades and lead inevitably to the Civil War.

EARLY NEED FOR CONGRESSIONAL OVERSIGHT OF AMERICA'S NATURAL RESOURCES

The diverse problems arising from the settlement of our western frontier prompted the Government to create the Department of the Interior in 1849 to be the custodian of the Nation's vast federally owned lands and natural resources. In the preceding 3 years, the United States had enlarged its domain by more than 3 million square miles, reaching nearly its present size between Canada and Mexico. The legislative oversight of the new Department's functions would fall under the Committee's jurisdiction.

The Federal Government began to designate and set aside areas of great natural beauty to be reserved for all future Americans to enjoy. In 1872 Congress established the first national park at Yellowstone in the Territories of Montana, Idaho and Wyoming and placed it under the exclusive control of the Secretary of the Interior.

In 1891 Congress enacted legislation providing for the establishment of the first Federal forest reserves from the public domain. In 1902 the first wildlife refuge was established by President Theodore

Roosevelt on Pelican Island, Florida. By 1910, most States had created agencies protecting wildlife and fisheries.

CONSERVATION ERA BEGINS

The years between 1901 and 1917 marked the first concerted Congressional movement towards conservation of natural resources and the protection and preservation of forests, wilderness areas, wildlife refuges and historic areas of the Nation. In 1916 President Woodrow Wilson signed legislation for the establishment of the National Park Service under the supervision of the Department of the Interior.

Under the Antiquities Act of 1906, which became public law as a result of legislation reported by the Committee on Public Lands, great regions of special scientific or historic interest were placed under Government protection. I find comfort in knowing that portions of the primeval forests and bayous of Louisiana along with other vast spaces of the American landscape, its roaring rivers, immense forests, and majestic mountains have been preserved for generations to enjoy.

COMMITTEE'S JURISDICTION INCREASED

In 1921, following a Senate committee consolidation, the Committee on Public Lands acquired the jurisdiction of the Committee on Geological Surveys and was retitled Committee on Public Lands and Surveys. A quarter of a century later, following the Legislative Reorganization Act of 1946, the Committee on Interior and Insular Affairs assimilated the jurisdiction of the Committee on Public Lands and Surveys and of the following other committees: Indian Affairs, Territorial and Insular Affairs, Mines and Mining, and Irrigation and Reclamation.

The acquisition of offshore territories at the end of the 19th century altered traditional policy which emphasized statehood as the ultimate objective for contiguous territories. The newly acquired insular areas—Puerto Rico and the Virgin Islands in the Eastern Caribbean, and American Samoa and Guam in the Pacific—which possessed unique geographic and cultural characteristics, were valued primarily for their strategic importance. They did not fit the traditional mold of States. In a series of decisions rendered by the U.S. Supreme Court in the early 1900's, the offshore territories, except for Hawaii, were classified as unincorporated, a term distinct from previous territories destined to become States.

In the first session of the 80th Congress (1947), the Committee acquired the jurisdiction of the Trust Territory of the Pacific Islands. Certain islands in Micronesia which had been under Japanese mandate from the League of Nations were placed under United States administration by the United Nations after World War II. Although not a United States territory, administration of the Trust Territory was entrusted to the United States in 1947 to carry out its rehabilitation and development. Under this relationship, the Trust Territory was divided into four separate entities with which separate relationships have evolved: the Commonwealth of Northern Mariana Islands, a U.S. territory; the Republic of Palau, a continuing Trust Territory; and the Federated States of Micronesia and the Republic of the Marshall Islands, "freely associated" independent states.

The United States currently advocates a policy of self-determined political, economic and social development towards its flag territories and insular areas. The principle of self-determination has remained a fundamental U.S. policy objective since the end of World War II, and has been reaffirmed by all recent U.S. administrations.

In addition, the Committee, since 1820, was closely concerned with U.S. relations with our Indian citizens.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS FORMED

In the 2nd session of the 80th Congress (1948), the committee was renamed the Committee on Interior and Insular Affairs. The Interior and Insular Affairs Committee had enormous geographical jurisdiction over the Nation's land, mineral and territorial responsibilities at home and abroad.

This included forest reserves, national parks, battlefields, preservation of prehistoric ruins, irrigation and reclamation, water supply, interstate compacts, as well as legislative responsibility for the publicly owned lands of the United States generally which consisted of more than 700 million acres with their surface and mineral resources, plus the mineral resources of millions of acres of other lands the surface of which had passed into private or State ownership, in addition to the mineral resources of the Outer Continental Shelf. Thus it had legislative jurisdiction over preservation and development of much of the vast natural resources with which our country is endowed, including our national parks and forests, wilderness areas, wild and scenic rivers, and trails.

The legislation for the enactment of statehood for Alaska and Hawaii came under the jurisdiction of the Interior and Insular Affairs Committee.

ENERGY AND ENVIRONMENTAL ERA BEGINS

The evolution of Federal energy policy from public land management contributed greatly to the major Congressional activities beginning with the second half of the 20th century. Responsibility had been divided, with the Department of the Interior responsible for oil, natural gas and coal policy, and the Atomic Energy Commission in charge of nuclear energy.

There was a similar evolution starting with the Committee's concern with national parks and wilderness areas that, among other things, resulted in the committee developing and utimately reporting the National Environmental Policy Act of 1969, which required a detailed analysis of all "major Federal actions that significantly affect the quality of the human environment."

Beginning in the 1970's, a new concept of environmental management came to be an accepted Federal policy concern. A Council on Environmental Quality was established to provide the President with objective advice and a continuing and comprehensive overview of the fragmented Federal jurisdiction. An annual environmental quality report was required to be submitted to the Congress to provide a statement of progress in environmental management.

THE ARAB OIL EMBARGO AND THE GATHERING CRISIS

The oil price shocks in the aftermath of the Arab Oil Embargo of 1973 propelled energy issues to the top of the national agenda and ultimately led to the creation of a separate agency for energy.

President Nixon's "Project Independence" inititated in late 1973 outlined a series of plans and goals to insure that within a decade Americans would achieve energy independence.

In December 1973, with the embargo starting to cause supply problems, President Nixon set up the Federal Energy Office headed by William E. Simon, then Deputy Secretary of the Treasury, as a crisis-management agency. In 1974, Congress established the Federal Energy Administration, which absorbed and enlarged the energy office. Later in 1974, Congress abolished the Atomic Energy Commission and assigned its regulatory duties to a new Nuclear Regulatory Commission and its nuclear research and weapons work to another new organization, the Energy Research and Development Administration.

President Ford in his January 1975 State of the Union Message outlined a comprehensive set of legislative proposals also built around the theme of energy independence. The struggle which ensued to enact the first major energy law of the 1970's culminated in the signing of the Energy Policy and Conservation Act [EPCA] in December of 1975, which included authorization of the Strategic Petroleum Reserve.

CREATION OF COMMITTEE ON ENERGY AND NATURAL RESOURCES

On January 4, 1977, in the 1st session of the 95th Congress, Senator Adlai Stevenson and Senator Bob Packwood introduced S. Res. 4, the Committee System Reorganization Amendments of 1977. That resolution was based on a 1976 study and report of the Select Committee on Committees which they had co-chaired. On February 4, 1977, the Senate adopted S. Res. 4, and the Committee on Energy and Natural Resources was created. Its jurisdiction included most of the functions of the Committee on Interior and Insular Affairs in addition to the new areas of natural gas pricing and regulation, energy regulation, energy research and development of all forms of energy, coal production, hydroelectric power and non-military development of nuclear energy.

The Committee's responsibility for Indian Affairs ended upon Senate approval of S. Res. 4, when a Temporary (now permanent) Select Committee on Indian Affairs was established.

Also early in 1977, at the urging of President Jimmy Carter to create a Cabinet-level Department of Energy, the Government Affairs Committee began hearings on this proposed new energy agency. The Department of Energy Organization Act, which was signed into law on August 4, 1977, accomplished the merging of some 50 energy-related functions of various Federal agencies including those of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to facilitate a coherent administration of a national energy policy.

Oversight of the newly formed Department of Energy would be the responsibility of the Committee on Energy and Natural Resources.

James R. Schlesinger was confirmed to be the first Secretary of Energy on August 4, 1977, and the new Department of Energy became effective on October 1, 1977.

Later in the 1st Session of the 95th Congress, in addressing the energy crisis, President Carter proclaimed a theme of "moral equivalent of war" in his campaign for energy independence. The Congress embarked on a program to develop a comprehensive energy policy resulting in the passage of several distinct types of energy laws as part of the Nation's struggle for energy security, including mandatory energy conservation measures, oil price deregulation, natural gas policy, including phased price deregulation, and other emergency response measures, such as the Strategic Petroleum Reserve, enacted in 1975 as part of the Energy Policy and Conservation Act, which has grown to be the Nation's primary defense against the economic damage of an oil supply disruption.

The Reagan Administration that took office in 1981 emphasized an energy policy based on deregulated, open market functions with minimum governmental intervention. During his first week in office, President Ronald Reagan eliminated the Federal price and allocation controls on oil, and has consistently advocated a policy based on conservation technologies and alternative sources of energy.

HONORING MEMBERS, PAST AND PRESENT

The Committee on Energy and Natural Resources and its predecessors has been served by many distinguished Members.

As Chairman of the Committee for 18 years, the late Senator Henry M. Jackson made unparalleled contributions to the Nation's energy and natural resource policies that will provide benefits to the American people for decades to come. During the 1970's which saw the emergence of energy as a major national concern, the rise of OPEC, the Arab oil embargo and the unprecedented rise in prices of all forms of energy, Senator Jackson played a major role in the Congressional response to energy problems.

A tribute to the life and achievements of the legendary "Scoop" Jackson is contained in Appendix A of this history. It is fitting that in the fall of 1987 a bronze portrait bust of Senator Jackson was unveiled and placed permanently in an alcove in the Russell Senate Office Building.

Following the national election of 1980 and the assumption of Republican leadership in the Senate, Senator James A. McClure of Idaho became Chairman of the Energy and Natural Resources Committee, succeeding Senator Jackson, and served with great distinction during the 97th, 98th, and 99th Congresses.

I would also like to note that Senator Mark Hatfield, the distinguished Senator from Oregon, is observing his 20th anniversary with our Committee (from 1967 to 1988). Senator Hatfield has received over 72 honorary degrees, including several from foreign countries. I am sure that a copy of the Committee history will take an honored place in the Mark O. Hatfield Library located on the campus at Willamette University in Salem, Oregon, where Senator Hatfield received his Doctor of Laws degree in 1958, and which was dedicated to him on September 4, 1986.

It is interesting to note that there have been only three Chairmen of our illustrious committee over the past 25 years, beginning with the late Senator Jackson's chairmanship in 1963, followed by Senator McClure who served as Chairman for 6 years from 1980 to 1986, and my own term beginning in 1987. I consider it a great honor to have become Chairman of our historic Committee in the 100th Congress.

THE 101ST CONGRESS

The jurisdiction and functions of the Committee as of the 101st Congress will include not only the same concerns that existed in the establishment of its predecessors, but many new critical public policy issues of energy, environment, conservation, and preservation of natural resources that gained prominence in the 1970's.

The issue of global climate change is part of the oversight responsibilities of the Committee in the 101st Congress. We must examine and assess the dangers of global warming caused by the "greenhouse" effect that actually threaten human survival within the next century, requiring even more stringent energy efficiencies and conservation. Another issue is acid rain, an environmental problem linked to the burning of fossil fuels—coal, oil, and gas.

Other oversight considerations before the Committee include the reduction of American dependence on foreign oil; the impact of an imposition of an oil import fee; the tightening of fuel standards for automobiles; a strong and independent domestic oil and gas industry; rebuilding of our nuclear weapons production capability and developing a new generation of reactors for electric generation with inherent safety features for nuclear power.

The traditional responsibilities of our Committee in territorial affairs and natural resources, including the preservation of our landscapes and seascapes, the conservation and restoration of our rivers and forests, and protection of our historical landmarks, will continue to receive substantial oversight and attention.

Our Committee is involved in issues that span virtually every region of the world:

—From oil and gas exploration on the frozen tundra of Alaska to the scientists who man the weather stations and study marine life in Antarctica;

—From the rain forests high above the humid coastal plains of Puerto Rico and the Virgin Islands to the Trust Territory Islands in the Pacific;

—From the gasoline stations in the tiniest hamlets in America to the Straits of Hormuz and the shiekdoms of the Middle East;

—From the local county energy boards to the International Energy Agency in Paris;

—From the simplicity of windmills to advanced nuclear reactors and the new supercolliding super conductor which will be the most powerful atomic accelerator in the world;

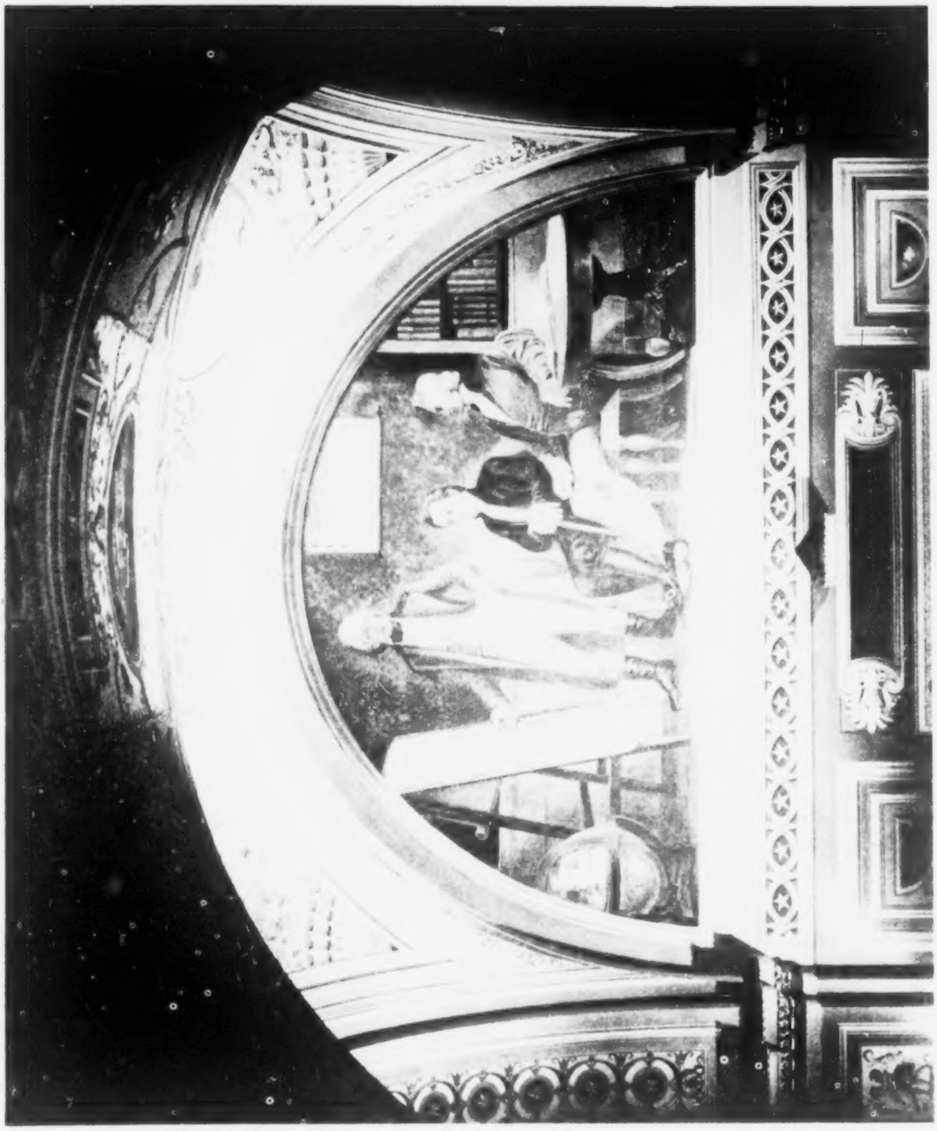
—There is a never ending variety and challenge awaiting the responsibilities and jurisdiction of our Committee.

XX

CONCLUSION

We have documented the first 200 years of our Nation's energy and natural resources legislation in this history of our Committee. Our Committee has a record of accomplishment that should be a source of pride to all who have participated in its accomplishments. The Committee has made an important contribution to the rich heritage of the United States Senate on the occasion of its bicentenary celebration.

XXI



Cession of Louisiana
(Negotiations for the acquisition of Louisiana)
Constantino Brumidi, 1875
Senate wing, first floor, north corridor

PREFACE BY SENATOR JAMES A. McCLURE, RANKING MINORITY MEMBER

As we begin the third hundred years of the United States Senate, it seems only fitting that each of the standing committees prepare or update their histories. And, as Ranking Minority Member, former Chairman, and as a member of the Energy and Natural Resources and its predecessor Interior and Insular Affairs Committee for over 16 years, it is especially gratifying to me that I may contribute to the history of one of the oldest committees in the Senate.

In his preface, Senator Johnston presented an excellent summary of the general history of this extraordinary Committee, outlining its origins, its jurisidiction, and several of its important contributions to the growth of this Nation. While the Committee has indeed accomplished a great deal throughout the over 170 years of its existence, certainly much of the Committee's succcess can be traced to the nature of those sitting on the Committee, the staff, and the types of issues the Committee typically deals with.

Perhaps more than any other standing Committee of the Senate, the Energy and Natural Resources Committee has a history—indeed, a habit—of being bipartisan in nature. Rather than forging alliances of "East versus West," this Committee has been more likely to develop an alliance of "Energy Resource Development versus Non-development." Instead of "Democrat versus Republican," we are more likely to see togetherness on behalf of or against a particular project or activity. By an overwhelming majority, a bipartisan representation of the Committee has been responsible for the passage of noncontroversial as well as extremely controversial legislation referred to the Committee. More often than not, such passage is unanimously approved by the members.

As I indicated previously, this is not a new phenomenon, but rather a longstanding practice of the Committee, spanning a period of at least several decades, if not longer. Many former members of the predecessor Committee, Interior and Insular Affairs, have spoken to me over the years about their time and accomplishments in the Senate; and none have failed to speak in other than glowing terms of the very special relationships members of both political parties have shared on this Committee. These former members speak of "regional" interests and similar "resource" interests, yet very seldom speak of partisan or political party interests.

This practice of relative nonpartisanship, in turn, results not just in good relationships between members, but also in the maintenance of good, professional staff, as well as impressive Committee workload statistics year after year. With regard to the latter, the Energy and Natural Resources Committee has typically been second or third in terms of the amount of legislation referred to the Committee, reported to the Senate floor, and measures signed into law, while carrying a staff and Committee budget ranging from the eighth to the tenth largest among all Senate committees. While these statistics should not be interpreted as an overworked staff, there nevertheless is no question in my mind that the Energy and Natural Resources Committee staff is among the most knowledgeable and professional of any on the Hill. Staff members such as Michael Harvey, James Beirne, Marjorie Gordner, Russell Brown, James Bruce, Tom Williams, Ben Cooper, Richard Grundy, and Al Astrin, to name just a few, have spent considerable portions of their careers dedicated to the work of the Committee. The eleven current employees of the minority staff, including one recent hire, have some 123 years of congressional experience. Several members of both minority and majority staffs have been retained in their current capacities over the years, despite political leadership changes on the Committee as well as in the Senate as a whole. This type of professionalism, particularly when staff can jump back and forth regardless of which political party is in charge, is perhaps the primary reason the members of the Committee are able to get so much work accomplished year after year after year.

It has been an extreme pleasure for me to be associated with the Energy and Natural Resources Committee and its predecessor, the Interior and Insular Affairs Committee, not just because of the important issues we deal with, but because of the people—both members and staff—that make up the real character of the Committee. This exceptional character has been with the Committee throughout the first and second hundred years of the United States Senate, and I am confident it will continue throughout the third hundred years and beyond.

Mr. JOHNSTON
Mr. McCLURE

Seated L to R: Senator J. Bennett Johnston (Louisiana), Chairman; Senator James A. McClure (Idaho), Ranking Minority Member

Standing L to R: Daryl Owen, *Staff Director;* D. Michael Harvey, *Chief Counsel;* Gary G. Ellsworth, *Chief Counsel for the Minority;* Frank M. Cushing, *Staff Director for the Minority*

Committee on Energy and Natural Resources

100th Congress, 2d Session

RESOLUTION OF APPRECIATION FOR SENATOR JAMES A. McCLURE AS OUTGOING CHAIRMAN OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, PRESENTED TO HIM BY CHAIRMAN J. BENNETT·JOHNSTON, JANUARY 14, 1987

Whereas James A. McClure has since 1973 been a member of the Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs; and

Whereas Senator McClure served as Chairman of the Committee from 1981 to 1987; and

Whereas under his leadership the Committee developed many pieces of energy and natural resource legislation that will make our country better and stronger for years to come; and

Whereas Senator McClure's dedication, persistence, and fairness as Chairman earned him the affection and admiration of his colleagues both on and off the Committee: Now, therefore, be it

Resolved, That the members of the Committee on Energy and Natural Resources salute James A. McClure for his constructive and productive service as Chairman of the Committee, and look forward to working with him in the years ahead.

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CHAPTER ONE

THE COMMITTEE'S STRUCTURE AND JURISDICTION

An Historical Overview

The Senate Committee on Energy and Natural Resources is of recent origin, a product of the reorganization of the Senate committee system in 1977. However, committees exercising parts of its current jurisdiction have been in existence since the early nineteenth century.

BACKGROUND OF PREDECESSOR COMMITTEES

In the period following the Revolutionary War, the Congress under the Articles of Confederation enacted the Land Ordinance Act of 1785, which established a policy of reserved mineral lands. Two years later, Congress enacted the Northwest Ordinance of 1787, which established a policy of free navigable waterways and determined procedures for setting public land boundaries for areas preparing for statehood. In 1805, under the Constitution, Congress adopted the Public Lands Survey Act (February 11, 1805, 2 Stat. 313), and the House of Representatives established a Committee on Public Lands.

The earliest predecessor to the Senate Committee on Energy and Natural Resources, the Committee on Public Lands, was established on December 10, 1816, with five members, as one of the first 11 standing committees in the Senate. The Committee was created in part to supervise the laws relating to the settlement of the Louisiana Territory, and in recognition of the significance for the future both of the management of public lands and of the development of Federal land policy as it concerned minerals, fuels and water resources. Senator Jeremiah Morrow (D-R., OH) was its first Chairman; Senators James Brown (—, LA), Waller Taylor (D-R., IN), James Noble (D-R., IN), and Robert H. Goldsborough (Fed., MD) were its first members.

There was very little change in the structure of the Public Lands Committee during its first one hundred years of existence, although its jurisdiction was steadily increasing with the westward movement and the resulting problems of expansion. The Senate, however, also created additional committees as need arose.

On January 3, 1820, the Senate established a Committee on Indian Affairs with jurisdiction over Indian legislation. Throughout the next one hundred years, other related committees were created to investigate trespassing on Indian lands and Indian attacks on settlers, and to coordinate legislation affecting specific tribes or groups of tribes. Table 1 lists the additional standing and select committees with jurisdiction over Indian affairs that existed from 1878 to 1920.

TABLE 1.—ADDITIONAL SENATE COMMITTEES WITH JURISDICTION OVER INDIAN AFFAIRS, 1878–1920

Period	Committee(s)
1878	Joint Committee on Transfer of the Indian Bureau
1879–1880	Select Committee to Examine into Removal of Northern Cheyennes
1881	Select Committee to Examine into Circumstances Connected With Removal of Northern Cheyennes from the Sioux Reservation to the Indian Territory
1886–1987	Select Committee on Indian Traders
1888–1892	Select Committee on Indian Traders Select Committee on the Five Civilized Tribes
1893–1908	Select Committee to Investigate Trespassers on Indian [Cherokee] Lands Select Committee on the Five Civilized Tribes Standing Committee on Indian Depredations
1909–1920	Standing Committee on Indian Depredations Standing Committee on the Five Civilized Tribes Standing Committee to Investigate Trespassers on Indian Lands

The Committee on Territories was created on March 25, 1844, to oversee Government operations in territories and to supervise the creation of new States. Two additional committees were created in 1899, to handle legislation relating to the Philippine Islands and to Cuban Affairs, in response to the Spanish-American War. Still another was given jurisdiction over Pacific Island possessions which were not yet United States territories; yet another was on Puerto Rico.

The Committee on Mines and Mining was created on March 8, 1865, in response to the opening of the bonanza silver mines. A Select Committee on Irrigation and Reclamation of Arid Lands was created on February 14, 1889, to consider irrigation and the best mode of reclaiming the arid lands of the United States. On December 17, 1891, the Senate established this panel as a standing Committee on Irrigation and Reclamation of Arid Lands.

In 1921, pursuant to S. Res. 43, introduced by Senator Frank Brandegee (R., CT), the Senate undertook a committee consolidation, primarily because the number of panels had increased to 74. Some had never met, others had little legislation referred to them, and still others (such as the Committee on Revolutionary Claims) had outlined their purpose. Although the reorganization did not explicitly define the legislative jurisdictions of the committees, it was undertaken to reduce the number of existing panels.

The Committee on Public Lands was renamed the Committee on Public Lands and Surveys when it acquired the jurisdiction of the Committee on Geological Surveys (created in 1899), which was merged with the Committee on Public Lands. Senator Reed Smoot (R., UT) was the panel's chairman; 12 other members were appointed.

Also in the 1921 reorganization, the Committee on Philippines, the Committee on Territories, the Committee on Pacific Islands, and the Commitee on Puerto Rico were combined into a new 13-member Committee on Territories and Insular Possessions. The additional committees dealing with Indian legislation then existing (Five Civilized Tribes, Indian Depredations, Investigate Trespasses on Indian Lands) were consolidated with the existing Committee on Indian Affairs.

Legislative Reorganization Act of 1946

By 1945, the Senate again perceived the need to reorganize and, pursuant to H. Con. Res. 18 of the 78th Congress, a Joint Committee on the Organization of Congress was created to formulate reform proposals. Composed of 12 members, 6 from each chamber with an equal number of Democrats and Republicans, the Joint Committee held hearings from March through June 1945. Members of Congress, congressional scholars, and public officials all testified regarding suggestions for reform.

In the course of the hearings, a proposal to alter the responsibility of the Public Lands Committee was discussed, and Senator Robert LaFollette (R., WI), the Chairman of the Joint Committee studying the reorganization effort, advocated the formation of a Committee on the Interior, Natural Resources and Public Works. The proposed new panel would consolidate the Committees on Indian Affairs, Oceanic Canals, Irrigation and Reclamation, Mines and Mining, Post Office and Post Roads, Public Buildings and Grounds, Public Lands and Surveys, and Territorial and Insular Affairs.

New Committee on Public Lands

The hearings culminated in passage of the landmark Legislative Reorganization Act of 1946 (60 Stat. 812, P.L. 79-601). The final measure only partially reflected all changes suggested during hearings. The legislation placed in the new Committee on Public Lands the jurisdiction of the Committee on Indian Affairs (created in 1820), Irrigation and Reclamation (created in 1891), Mines and Mining (created in 1865), Public Lands and Surveys (created in 1921), and Territories and Insular Affairs (created in 1844). Senator Hugh Butler (R., NB) was designated Chairman. The three other panels which had been considered for consolidation with the Public Lands Committee (Oceanic Canals, Post Office and Post Roads, and Public Buildings and Grounds) were either merged with other panels or left as standing committees.

The five panels which had been consolidated comprised the new Committee's first five subcommittees. The Subcommittee on Territorial and Insular Affairs was disbanded in the 94th Congress, with its jurisdiction assumed by the full committee. The Subcommittee on Irrigation and Reclamation was renamed Water and Power Resources in 1965, Energy Research and Water Resources in 1975, and Water and Power in 1981. The Subcommittee on Indian Affairs was disbanded in 1977 with the creation of the Select Indian Affairs Committee. The Subcommittee on Public Lands was renamed Environment and Land Resources in 1975, Public Lands and Resources in 1977, Public Lands and Reserved Water in 1981, Public Lands, Reserved Water and Resource Conservation in 1985, and Public Lands, National Parks, and Forests in 1987. The Subcommittee on Mines and Mining was renamed Minerals, Materials, and Fuels in 1953 and disbanded in the 94th Congress. A sixth, the Natural Resources Economic Subcommittee, was created in 1947 to study the conservation of vital commodities for a post war economy, but was discontinued in 1948 at the end of the 2d session.

Essentially, the newly configured Public Lands Committee had six major spheres of responsibility and jurisdiction: Indian affairs; minerals, materials, and fuels; parks and recreation; public lands; territories and insular affairs; and water and power resources. Other interests within the Committee's sphere included:

American Indians and Alaska Natives;

Mineral resources of public lands, including those on lands withdrawn as forest reserves, and on the Outer Continental Shelf;

Activities of the Bureau of Land Management;

Administration of mineral laws;

Mining school and experimental stations;

Supervision as trustee of Indian owned mineral rights;

Conservation of petroleum and natural mineral resources;

National parks, historic sites, recreation areas, monuments, and military parks and battlefields;

Forest reserves created from the public domain;

All public lands;

The territories, including the Commonwealth of Puerto Rico, the territories of American Samoa, Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, as well as limited responsibility for Antarctica; and

Water policy, including irrigation, reclamation, water supply, water power development, interstate compacts apportioning water, and general aspects of water resources policy through the Water Resources Council.

The Committee shared responsibility with several other committees in the areas of environment, energy, water policy, and ocean policy.

The Committee's new responsibilities were set forth in the Legislative Reorganization Act of 1946 in the following list. Although jurisdictional language was not as formal before passage of this law, the list below also identifies the original committees previously exercising each element of this jurisdiction.

1. Public lands generally, including entry, easements, and grazing thereon (from Public Lands and Surveys)
2. Mineral resources of the public lands (from Public Lands and Surveys)
3. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands (from Public Lands and Surveys)
4. Forest reserves and national parks created from the public domain (from Public Lands and Surveys)
5. Military parks and battlefields and national cemeteries (from Public Lands and Surveys)
6. Preservation of prehistoric ruins and objects of interest on the public domain (from Public Lands and Surveys)
7. Measures relating generally to the insular possessions of the United States, except those affecting their revenue and appropriations (from Territories and Insular Affairs)
8. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects (from Irrigation and Reclamation)

9. Interstate compacts relating to apportionment of waters for irrigation purposes (from Irrigation and Reclamation)

10. Mining interests generally (from Mines and Mining)

11. Mineral land laws and claims and entries hereunder (from Mines and Mining)

12. Geological survey (from Mines and Mining)

13. Mining schools and experimental stations (from Mines and Mining)

14. Petroleum conservation and conservation of the radium supply in the United States (from Public Lands and Surveys and Mines and Mining)

15. Relations of the United States with the Indians and Indian tribes (from Indian Affairs)

16. Measures relating to the care, education, and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds (from Indian Affairs).

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

On January 28, 1948, one year following implementation of the committee reorganization, the Senate adopted S. Res. 179. This resolution changed the panel's name to the Committee on Interior and Insular Affairs to reflect more accurately the increased scope of its jurisdiction and functions.

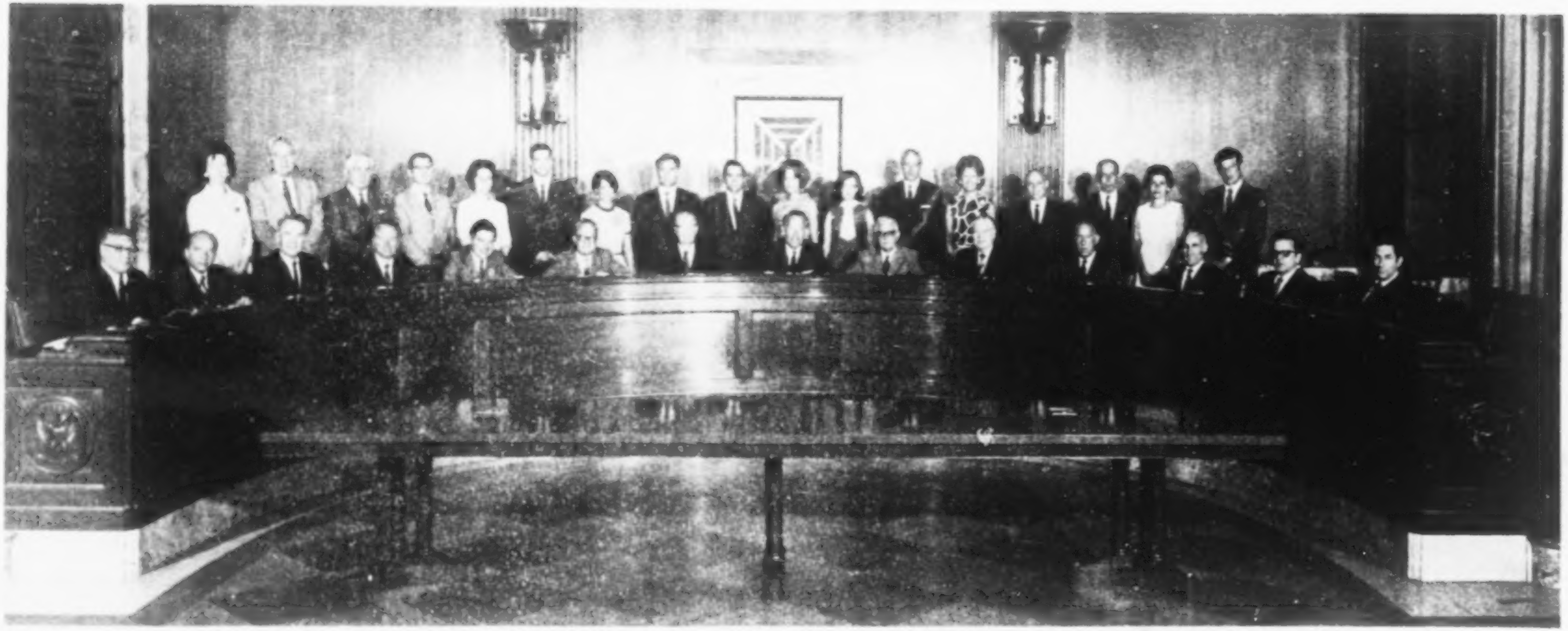
Through the decades of the 1950s and 1960s, the trend begun at the turn of the century, toward increased direct Federal management and decision-making in the proprietorship of public lands and waters, continued. Greater planning was undertaken for the multipurpose management of public resources, and more emphasis was accorded to emerging resource uses, such as outdoor recreation, fish and wildlife conservation, and aesthetic and cultural values. As a result of its traditional involvement in natural resources management and in energy resources particularly, the Interior and Insular Affairs Committee assumed a leadership role in defining Federal environmental and energy policy initiatives. For example, in 1965, the Committee established a Subcommittee on Parks and Recreation, as well as a Subcommittee on Oversight which was directed to monitor the implementation and operation of Federal programs for which the Committee had jurisdiction. In 1969, the Committee created a Special Subcommittee on Outer Continental Shelf (OCS) to inquire into problems inherent in mineral exploration and development in coastal waters.

In 1966, a second Joint Committee on the Organization of Congress, created to review compliance with the intent of the 1946 Legislative Reorganization Act and to determine if there was a need for additional modifications in Congressional operations, issued an interim report. This report discussed the Joint Committee's findings to that point, and summarized some of the testimony received during its review. Several Members made suggestions which affected the responsibilities of the Interior Committee. For example, Senator William Proxmire (D., WI) suggested combining the Agriculture, Interior and Public Works Committees into one panel. Senator George McGovern (D., SD) recommended creating a "Select

Committee on Resources and Conservation report," to be composed of the chairman and ranking minority members of the Committees on Agriculture, Commerce, Interior, and Public Works. These ideas were considered during the preparatory stages for the 1970 Legislative Reorganization Act, and although none were acted upon, they resurfaced 10 years later, when the Senate again undertook a review of its committee system.

In 1970, the Congress passed the second Legislative Reorganization Act (84 Stat. 1140, P.L. 91-510). Although the legislation primarily addressed procedural issues (such as modifying committee procedures relating to the power of committee chairmen, the conduct of hearings, the reporting of measures, the use of proxies, and the exercise of more effective oversight), it did create a new Committee on Veterans' Affairs. The new Veterans' Affairs Committee inherited jurisdiction over national cemeteries from the Interior and Insular Affairs Committee. The legislation also strengthened committee oversight responsibilities and required each standing committee to submit, at the beginning of each new Congress, a report of its activities for the preceding 2 years.

By 1970, the Committee had six major subcommittees encompassing the entire spectrum of the Public Lands Committee's responsibility: the Subcommittee on Indian Affairs; the Subcommittee on Minerals, Materials, and Fuels; the Subcommittee on Parks and Recreation; the Subcommittee on Public Lands; the Subcommittee on Territoral and Insular Affairs; and the Subcommittee on Water and Power Resources.



Senate Committee on Interior and Insular Affairs, 91st Congress, 1st session

Seated left to right: Senators Metcalf, Montana; Nelson, Wisconsin; Burdick, North Dakota; Moss, Utah; Church, Idaho; Bible, Nevada; Anderson, New Mexico; Chairman Jackson, Washington; Allott, Colorado; Jordan, Idaho; Fannin, Arizona; Hansen, Wyoming; Stevens, Alaska; Gravel, Alaska.

Members absent: Senators McGovern, South Dakota; Hatfield, Oregon; and Bellmon, Oklahoma.

Standing left to right: Rosemary Donnelly, Secretary; Stewart French, Prof. Staff; Porter Ward, Prof. Staff; William Van Ness, Jr., Special Counsel; Betty Sutton, Secretary; Denny Miller, Prof. Staff; Barbara Nolan, Prof. Staff; Jerry Verkler, Staff Director; Charles Cook, Jr., Minority Counsel; Claudette Cox, Secretary; Darla West, Secretary; James Gamble, Prof. Staff; Avis Brateng, Secretary; Daniel Dreyfus, Prof. Staff; Laurence Frank, Prof. Staff; Victoria Williams, Secretary; J. Weibe, Prof. Staff.

National Fuels and Energy Policy Study

On May 3, 1971, pursuant to S. Res. 45, sponsored by Senator Henry M. Jackson (D., WA), Chairman of the Interior and Insular Affairs Committee, and Senator Jennings Randolph (D., WV), Chairman of the Public Works Committee, the Senate authorized a National Fuels and Energy Policy Study, and gave major responsibility to the Interior and Insular Committee to review programs and policies required to meet national energy needs. Although the Interior and Insular Affairs Committee was granted to the lead role, ex officio membership for the study was granted to the Chairman and ranking minority members of the Commerce Committee and the Public Works Committee, and to the ranking majority and minority Senate Members of the Joint Committee on Atomic Energy. As the study progressed, the Committees on Finance, Foreign Relations, Government Operations, and Labor and Public Welfare were subsequently given ex officio membership representation as well. The 124 days of hearings, staff studies, and other publications of the National Fuels and Energy Policy Study represented the most comprehensive compilation of information and comment on energy issues ever assembled to that time.

The Energy Policy Study staff also provided assistance to other Senate committees. For example, the staff worked with the Armed Services Committee on legislation affecting the naval petroleum reserves; with the Commerce Committee on energy conservation legislation; and with the Government Operations Committee on legislation creating the Federal Energy Administration and the Energy Research and Development Administration. In addition, the Interior and Insular Affairs Committee took the lead in coordinating and expediting major legislative initiatives which involved the jurisdiction of more than one Senate committee, including the Deepwater Port Act of 1974 (P.L. 93-627, 88 Stat. 2136), the Energy Supply and Environmental Coordination Act of 1974 (ESECA, P.L. 93-319, 88 Stat. 246), the Energy Policy and Conservation Act of 1975 (P.L. 94-163, 89 Stat. 871), the Naval Petroleum Reserves Production Act of 1976 (P.L. 94-258, 90 Stat. 303), and the Alaska Natural Gas Transportation Act of 1976 (P.L. 94-586, 90 Stat. 2903). The National Fuels and Energy Policy Study was terminated in the 95th Congress. Thus began the era of jurisdictional overlap.

Era of Jurisdictional Overlap

By the mid-1970s, there was recognition in the Senate that the system designed 30 years earlier no longer accommodated the complexities of modern energy and resource problems faced by the Nation. For example, the Interior Committee faced problematic overlapping jurisdictional interests with other committees in the areas of energy, environment, water, and ocean policy. Other jurisdictional overlaps of lesser import or contention were related to the designation of wilderness areas, Indian affairs, land use, territories, petroleum reserves, and timber and forests.

Perhaps the greatest overlap was in the diverse area of energy policy. At least 14 standing committees, one select committee, and two joint committees were active in energy issues. The subjects addressed covered a wide range, including rationing and allocation of oil and gas resources, automotive fuel economy, energy and very specific energy conservation measures, incentives to specific technological processes (solar, nuclear, oil and coal conversion, geothermal, etc.) in energy production, pricing questions, transportation systems, and other production issues that affected industrial, agricultural, and other consumer sectors.

For the Interior Committee, the most pervasive overlap was with the Commerce Committee. That panel had jurisdiction for coastal zone management, while this Committee had jurisdiction over the OCS, thereby raising the question of jurisdiction over the development of offshore oil and gas resources. The Commerce Committee also considered the use of supertankers and the effects of oil spills, two topics with which the Interior Committee was also concerned. In addition, the Commerce Committee also had analyzed the impact of energy proposals on consumers, considered measures to promote energy conservation, evaluated the regulation of natural gas, and reviewed the Administration's general energy policy—all areas overlapping with the Interior Committee.

The Government Operations Committee also had been concerned with many issues that overlapped with the Interior Committee's interest in energy: U.S. oil supplies, energy shortages, petroleum overpricing, refinery output manipulation, energy conservation, and oversight over the Energy Research and Development Administration. Several other Senate committees also had significant jurisdictional overlaps with the Interior Committee in the area of energy policy, although few problems existed: The Committee on Agriculture dealt with fuels availability for agriculture; the Committee on Armed Services with naval petroleum reserves; the Committee on Banking, Housing and Urban Affairs with solar heating and cooling and energy conservation; the Budget Committee with budgetary implications of energy development; the Committee on Finance with energy and tax policy; the Committee on Foreign Relations with effects of oil prices and shortages on American foreign policy; and the Committee on Public Works with energy and air and water pollution control policy.

Another major area of overlap was environmental policy. The Interior Committee reported the National Environmental Policy Act of 1969 (NEPA, P.L. 91-190, 83 Stat. 852), authorizing a comprehensive national policy for protection of the environment and creating a Council on Environmental Policy to track and formulate environmental policy. Although the Interior Committee had reported the measure, a similar bill was also reported by the Public Works Committee. The latter bill established an Office of Environmental Quality with a mandate similar to the Council recommended by the Interior Committee. The result was that Interior had primary jurisdiction over the law and the Council, but shared oversight jurisdiction over the Council's operations with the Public Works Committee.

The Interior Committee's jurisdictional interests in issues raised in the National Environmental Policy Act generally overlapped with the jurisdiction of the Committee on Public Works for environmental policy set in the Clean Water and Clean Air Acts, which the Public Works Committee had reported. The Interior Committee's jurisdiction also overlapped with that of the Commerce Committee in the areas of environmental research and development, Environmental Protection Agency oversight, coastal zone management, safe drinking water, ocean dumping, and solid waste.

Regarding water and ocean policy, the Committees on Interior, Commerce and Public Works all asserted jurisdiction over aspects. The Interior Committee was responsible for authorizing individual water projects under the Bureau of Reclamation, but the Public Works Committee authorized most other water projects, which were under the Army Corps of Engineers. The Interior Committee also asserted jurisdiction over most general water policy legislation, and had jurisdiction over the Water Resources Council, which set regional and national water policy. The Water Resources Council and the Environmental Protection Agency occasionally conflicted over policy direction. As a result, the Interior and Commerce Committees also conflicted. The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500, 86 Stat. 816), which was under the Public Works Committee's jurisdiction, and the Safe Drinking Water Act of 1974 (P.L. 93-523, 88 Stat. 1660), under the jurisdiction of the Commerce Committee, also overlapped with the Interior Committee's interests, given the strong connection between water pollution control, assurance of safe drinking water, and national environmental policy standards and interests in water resources generally.

Ocean policy also was primarily shared between the Committees on Commerce and on the Interior. The Interior Committee had responsibility for OCS lands, but through its ocean policy study and its jurisdiction over the Coastal Zone Management Act of 1972 (P.L. 92-583, 86 Stat. 583), the Commerce Committee had taken an interest which had grown into a comprehensive land use planning policy for all coastal areas and 200 miles up all tributaries. This interest represented overlap with the Interior Committee's jurisdiction over OCS programs, general programs related to public lands, and NEPA environmental policy.

Several other jurisdictional issues concerned the Interior Committee as well. Indian education and health policy was a chronic area of overlap with the Committee on Labor and Public Welfare. The Indian criminal code and crime control were issues of overlap between the Committees on Interior and Judiciary. Designation of eastern wilderness areas was an area of overlap with the Committee on Agriculture. And minor jurisdictional overlaps arose periodically between the Interior Committee and the Committees on Armed Services and Foreign Relations over the territories and deep sea mining.

TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

On March 31, 1976, the Senate established a 12-member bipartisan Temporary Select Committee To Study the Senate Committee System (Stevenson Committee), directing it to report its recommendations by February 1977. Committee members included Senators Adlai Stevenson (D., IL), Lee Metcalf (D., MT), Gaylord Nelson (D., WI), Lloyd Bentsen (D., TX), Lawton Chiles (D., FL), Frank Moss

(D., UT); he replaced Sam Nunn (D., GA), Bill Brock (R., TN), Clifford Hansen (R., WY), Barry Goldwater (R., AZ), Bob Packwood (R., OR), Pete Domenici (R., NM), and Jesse Helms (R., NC). Senators Metcalf and Hansen served on the Interior Committee. (The Select Committee membership represented all standing committees save Foreign Relations, Judiciary, and Rules and Administration.) Senators Moss, Goldwater and Domenici had served on the National Fuels and Energy Policy Study.

The issues then within the purview of the Interior Committee were the subject of extensive and intense discussion during the Stevenson Committee hearings in July and September 1976. For example, Senator Robert Dole (R., KS) testified that soil and water conservation, which was shared by the Committees on Agriculture, Interior and Public Works, should be comprehensively considered by one committee, although he did not specify which panel it should be. Senator Charles Percy (R., IL) recommended separating energy and environment into two distinct committees.

Senator Hubert Humphrey (D., MN) discussed his concern over the artificial split between the Park Service, which was in the Interior Committee's jurisdiction, and the Forest Service, which was in the Agriculture Committee's jurisdiction, and the ensuing difficulty in coordination. He advocated the creation of a separate Energy Committee. Senator Patrick Leahy (R., VT), on the other hand, testified that coordination often occurred, was positive, and had proven to be problematic. Senator Mike Gravel (D., AK) recomended the creation of a Committee on Natural Resources that would be responsible for the areas of energy, science, ecology, environment, and some agricultural issues.

The members of the Interior Committee sent a letter to the Select Committee recommending the creation of an Energy and Natural Resources Committee which would be based primarily on the membership and jurisdiction of the current Interior and Insular Affairs Committee. Several outside groups, including Common Cause, testified that disbanding the Joint Committee on Atomic Energy would have a positive impact on jurisdictional coordination among committees.

The Select Committee completed markup of its recommendations in late September. On September 30, 1976, the Select Committee was granted permission to file a first report embodying its recommendations and was authorized to submit a resolution incorporating such recommendations for referral to the Committee on Rules and Administration.

On October 15, 1976, Senators Adlai Stevenson and Bill Brock, the Chairman and Co-chairman, submitted S. Res. 586, a measure detailing the reform proposals endorsed by the Select Committee. Although the Senate had adjourned on October 1, 1976, the measure was referred to the Rules and Administration Committee. S. Res. 586 made numerous recommendations for change which would affect the Interior and Insular Affairs Committee. It called for steps to reconstitute the Interior Committee into a Committee on Energy and Natural Resources by drawing together most elements of energy jurisdiction, and by concentrating most environmental protection jurisdiction into a separate committee (reconstituting the Senate's Public Works panel into an Environment and Public Works Committee). The new Energy Committee's energy-related jurisdictions would include energy policy and energy regulation, plus the current jurisdiction of the Interior Committee over oil production, mining, mineral resources on public lands, mining claims, mineral conservation, mining schools, energy research and development, and mineral extraction from OCS lands.

The proposal would give the new committee jurisdiction over solar heating and cooling development (taken from several committees, including Aeronautical and Space Sciences); applications of energy conservation and solar heating (from the Banking Committee); nonmilitary nuclear energy research and development (from the Joint Atomic Energy Committee); and natural gas and oil production and distribution (from the Commerce Committee). The new committee's jurisdiction would also incorporate hydroelectric power; coal production, distribution (except Interstate Commerce Commission regulated railroads and pipelines) and utilization; and deepwater ports (all from the Public Works Committee). The Commerce Committee's jurisdiction over deepwater ports and OCS lands, then shared with the Public Works and Interior Committees, would be consolidated in the new Energy Committee. In addition, as part of its overall responsibilities in the areas of natural resources and public lands, the new Energy Committee would have jurisdiction over public lands, national parks, recreation sites, wilderness areas, and historical sites, as well as native American land management and trust responsibilities, all from the present Interior Committee.

Jurisdiction recommended by the Select Committee to be transferred out of the Interior Committee included nonmineral aspects of OCS lands, environmental protection policy, water resources (river basin policy and the Wild and Scenic Rivers System), deepwater port facilities (except energy related policy), and land and water conservation, all of which would be acquired by the Environment and Public Works Committee. In addition, irrigation, reclamation and land use planning would go the Agriculture Committee, insular possessions to the Governmental Affairs Committee, and American Indian education, health, social services and loan programs to the Human Resources Committee.

The Committee on Energy and Natural Resources would exercise comprehensive policy oversight, a new formal concept recommended by the Select Committee for inclusion in the rules, in the areas of energy and resources development.

From a policy perspective, the jurisdictional consolidation originally recommended changes in three areas: energy research and development, natural resources and public lands, and Native American land management responsibilities. The Select Committee believed that a new Committee on Energy and Natural Resources would bring together energy jurisdiction that was dispersed among at least 14 standing committees and one select committee. The Stevenson Committee also recognized three new jurisdictional terms to be inserted in Senate rules: energy policy, energy regulation and conservation, and energy research and development. The Select Committee believed that establishing jurisdiction in these terms, combined with a comprehensive policy oversight authority for energy and resources development, would create a jurisdictional base that would assist the Senate in developing comprehensive, integrated energy legislation.

Closely related to the energy question was natural resources and public lands policy, long under the aegis of the Interior Committee. Therefore, the Select Committee recommended retaining jurisdiction over the management of public lands (including national parks, recreation areas, wilderness areas, mineral extraction and energy development), together with natural resources jurisdiction, in the new Energy and Natural Resources Committee, to foster a more coherent approach to energy policy. The Public Works Committee (to be renamed Environment and Public Works) would exercise directly related and sometimes overlapping jurisdiction in its consideration of the environmental impact of the use of public lands and the development of energy sources.

While the Select Committee recommended transferring jurisdiction over Native American health, education, welfare and social programs to the Labor and Public Welfare Committee (to be renamed Committee on Human Resources), Native American land and trust-related issues would remain within the purview of the Energy and Natural Resources Committee. The Stevenson panel believed that the traditional relationships between Indian and Eskimo citizens and the Federal Government were closely linked to the questions of public lands, water rights, minerals, and other natural resources on Native American lands. Given the importance of these land management and trust questions, and their historic position within the Interior Committee, which was handling public lands and natural resources, the Stevenson panel recommended retaining these jurisdictions in the proposed Energy Committee.

On January 4, 1977, at the start of the 95th Congress, Senators Stevenson and Packwood (who became Co-chairman after the election defeat of Senator Brock) submitted S. Res. 4, the Committee System Reorganization Amendments of 1977. The resolution was similar, though not identical, to S. Res. 586 of the 94th Congress. The basic modifications affecting the Energy Committee were to change "naval petroleum reserves in Alaska," to add "irrigation and reclamation" to "hydroelectric power," to delete "Native American land management and trust responsibilities," and to add a new item on "Territorial possessions of the United States, excluding trusteeships."

Rules and Administration Committee Consideration of S. Res. 4

The resolution was considerd and amended by the Rules Committee in January, 1977. The Rules Committee testimony reflected many of the concerns that had led to the changes from S. Res. 586 reflected in S. Res. 4, as well as other changes. Most of the Members who testified before the Rules Committee had not appeared before the Stevenson Committee.

Chairman of the Interior Committee Henry Jackson testified before the Rules Committee about his concern over the recommended split on Indian jurisdiction between the Committees on Interior and Human Resources. He also expressed his belief that irrigation and reclamation should be retained in the Energy Committee and not transferred to the Agriculture Committee; that all Bureau of Reclamation programs should be consolidated in the

Energy Committee; that wild and scenic rivers, slated to be transferred to the Environment Committee, should remain with the Energy panel; and that mine safety and miners' health should be placed with the Committee on Human Resources. Senator Stevenson agreed in principle with the latter two points.

Most of the items addressed by Senator Jackson were raised by others as well. Senators James Abourezk (D., SD) and Pete Domenici advocated a separate Indian Affairs Committee, or at the least, unifying all Indian jurisdiction in one unit, presumably an Energy Committee. Representatives of the National Tribal Chairman's Association and the National Congress of American Indians testified regarding Indian jurisdiction as well.

Irrigation and reclamation was also the subject of debate in the Rules Committee. Interior Committee Chairman Henry Jackson believed these subjects should be retained in the Energy Committee, as did Senator Frank Church, who stated that separating them from hydroelectric power jurisdiction, which was in Energy, was like "separating Siamese twins." Senator Stevenson still maintained that irrigation and reclamation jurisdiction should be in the Agriculture Committee.

Senators Bennett Johnston (D., LA) and Edmund Muskie (D., ME) testified that the land and water conservation fund more appropriately belonged in Energy, not in the Environment Committee as slated in S. Res. 4. Senator Muskie went further, suggesting that jurisdiction over all conservation programs should be in Energy, including all those in the Bureau of Reclamation, and wild and scenic rivers, the latter two originally advocated by Senator Jackson. Senator Johnston testified against transferring territorial affairs to the Governmental Affairs Committee. Senator Domenici discussed the problems that would result from separating military and domestic aspects of atomic energy between the Committees on Armed Services and Energy. Senator Don Riegle testified against the major reorganization effort envisioned in S. Res. 4, recommending instead the establishment of a separate consolidated Energy Committee as a test case.

On the last day of Rules Committee hearings, the Committee surveyed which issues which appeared to have a consensus, and which still needed further clarification during markup. The former included wild and scenic rivers, the land and water conservation fund, irrigation and reclamation, miners' health and safety, and land use planning. The latter included naval petroleum reserves, deepwater ports, extraction of minerals from the Outer Continental Shelf lands, and Native American land management.

Rules and Administration Committee markup began on January 14, 1977. The items on which consensus had already been reached were easily disposed of. The Rules Committee voted unanimously to disband the Joint Committee on Atomic Energy (pending House approval) and to transfer that panel's jurisdiction over nonmilitary development of nuclear energy to the Energy and Natural Resources Committee. The area of irrigation and reclamation was returned to the Energy Committee from the Agriculture Committee; land use planning was deleted as a category altogether. Wild and scenic rivers, a new Rules XXV jurisdictional term, which had been slated for the Environment Committee, was granted instead to the Energy Committee. The land and water conservation fund was also to go to the Energy Committee rather than Environment Committee. The Energy Committee also received jurisdiction over energy aspects of deepwater ports, extraction of minerals from OCS lands, and deep sea mining.

Miners' health and safety would be transferred to the Human Resources Committee. In dividing naval petroleum reserves between those in Alaska (to the Energy Committee) and those everywhere else (to the Armed Services Committee), the Rules Committee merely continued then current policy.

Further, the Rules Committee recommended establishing a panel on Indian Affairs for the 95th Congress only, after which jurisdiction over Indian affairs would revert to the Human Resources Committee. Also, jurisdiction for forestry issues in the Committee on Agriculture was clarified to include forestry and forest reserves and wilderness areas other than those in the public domain; those on the public domain were to remain in the Energy Committee. Relatedly, Federal parks, slated for the Committee on Governmental Affairs, was deleted as a term, while the jurisdiction of the National Park Service over Federal parks in the District of Columbia would remain in the Energy Committee's purview.

In summary, the modifications made by the Rules Committee in markup basically addressed the same five areas that had been the subject of discussion both during and since enactment of 1946 Legislative Reorganization Act: Indian affairs, insular possession, irrigation and reclamation and land use planning, international aspects of nuclear energy and trusteeships for United States possessions.

For Indian affairs, the Stevenson Committee recommended transferring jurisdiction from the Interior Committee to the Human Resources Committee. The Rules Committee instead recommended the establishment of a new Select Committee on Indian Affairs, with jurisdiction reverting to the Human Resources Committee after the Indian Affairs panel expired.

For insular possessions, the Stevenson Committee recommended a transfer from the Committee on Interior to the Committee on Governmental Affairs. The Rules Committee retained insular possessions in the Interior Committee.

Regarding irrigation, reclamation and land use planning, the Stevenson panel recommended a transfer of jurisdiction from the Committee on Interior to the Committee on Agriculture. The Rules panel preferred retaining the issue in the Interior Committee.

For the international aspects of nuclear energy, the Stevenson Committee recommended retaining nonmilitary aspects of nuclear energy in Interior. The Rules Committee recommended transferring the issue to the Foreign Relations Committee.

The Stevenson panel did not address the issue of trusteeships for United States possessions, while the Rules Committee recommended transferring it from the Interior Committee to the Foreign Relations Committee.

Adoption of S. Res. 4

The Senate adopted S. Res. 4, as amended, on February 4, 1977. Although the final form of the resolution was largely determined during the Rules Committee markup, some discussion regarding the Energy Committee and its jurisdiction occurred during floor debate on it. Senator Edward Kennedy (D., MA) lauded the creation of a Committee on Energy and Natural Resources as the most notable accomplishment of committee reorganization. On the other hand, Senator Edward Brooke (R., MA) stated that it was a mistake to put parks and wilderness areas, and similar conservation programs, in the Energy Committee. He further stated that it was an even bigger mistake to have an Energy panel as envisioned in S. Res. 4, since conservation-related functions were removed from its jurisidction, and the Committee would receive instead a concentration of duties related to the development of energy resources.

Senators Jennings Randolph (D., WV), Frank Church (D., ID), Robert Stafford (R., VT), and Howard Cannon (D., NV) clarified jurisdiction over water resource policy, including responsibility for the Corps of Engineers and the Tennessee Valley Authority. Further clarification came as a result of a colloquy between Senator Dale Bumpers (D., AR) and Rules Committee Chairman Cannon regarding the continuation of the then current shared jurisidctional arrangement between the Committees on Agriculture and Energy over national forests and wilderness areas created from nonpublic domain lands.

Only one floor amendment affected the Energy Committee, and that one was offered after S. Res. 4 was adopted (although that action was vitiated in order to accommodate the amendment). The amendment primarily clarified trsuteeship jurisdiction, so that the Foreign Relations Committee would have primary juridiction over national security and international aspects of trusteeships. All other aspects of trusteeships would remain within the Energy Committee's purview.

THE ENERGY AND NATURAL RESOURCES COMMITTEE

Essentially, the Interior and Insular Affairs Committee, renamed the Energy and Natural Resources Committee, retained most of its former responsibilities. It gained jurisdiction over Naval petroleum reserves and oil shale reserves in Alaska from the Armed Services Committee, over water power from the Public Works Committee, and over nonmilitary development of atomic energy from the Joint Committee on Atomic Energy. In addition, the Energy Committee gained jurisdiction over a wide range of subjects that had not been defined under the old jurisdictional rules. Among these subjects were solar energy, Outer Continental Shelf energy reserves, energy regulation and research and coal production and distribution.

The new areas of juridiction that were specifically assigned to the new Committee on Energy and Natural Resources pursuant to the adoption of S. Res. 4, as amended, the Committee System Reoganization Amendments of 1977 were:

1. Energy policy
2. Energy regulation and conservation
3. Energy research and development
4. Solar energy systems
5. Oil and gas production and distribution

6. Extraction of minerals from oceans and Outer Continental Shelf lands
7. Energy related aspects of deepwater ports
8. Coal production, distribution, and utilization
9. Naval petroleum and oil shale reserves in Alaska
10. Nonmilitary development of nuclear energy
11. Hydroelectric power.

The New Committee retained (from the Interior and Insular Affairs Committee) traditional jurisdiction over:

1. Irrigation and reclamation
2. Mining education and research
3. Mining, mineral lands, mining claims, and mineral conservation
4. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest
5. Public lands and forests, including farming and grazing thereon, and mineral extraction thereform
6. Territorial possessions of the United States, including trusteeships.

In adopting S. Res. 4, the Senate also gave approval to greater jurisdictional oversight authority for the Energy and Natural Resources Committee in national energy policy and resource development. Under the reorganization, however, jurisdiction over relations of the United States with the Indians and Indian tribes, including measures relating to the care, education and management of Indians, was transferred to the newly created Select Committee on Indian Affairs.

The new Eenrgy and Natural Resources Committee was charged with addressing energy needs and continuing its leadership role in energy policy legislation and oversight; promoting energy production and conservation through pricing policies that reflected the real cost of energy; protecting the Nation from being harmed by disruption in energy supplies; developing, through long-term research and development, sources of energy to sustain long-term economic growth; and insuring the safe use of energy. As well, the Committee would continue to devote substantial time and effort to its traditional responsibilities in natural resources and territorial affairs and to provide for balanced conservation and development of public land, water, timber, minerals, and other natural resources; to preserve natural areas, fish and wildlife; and to preserve and protect our historic landmarks.

The Modern Energy and Natural Resources Committee

Since the passage of the 1977 Committee System Reorganization Amendments, the structure and jurisdiction of the panel has remained fairly constant. Several factors distinguish the Energy and Natural Resources Committee from other Senate committees.

The Energy Committee, has distinguished itself as among the most nonpartisan, or bipartisan, in the Senate. Because the issues considered affect regional more than partisan interests, the panel has traditionally approached its work in a consensus building mode. Most policy considerations occur between members prior to public discussion of an issue, so that by the time the panel reports a measure, controversy has been abated and the vote is as close to unanimous as possible. Much of this consensual approach has been attributed to the narrow margin afforded the majority party on the Committee in the last 10 years.

The Energy and Natural Resources panel is generally a constituent-oriented committee. The panel has retained primarily State-related interest for Senators, and has kept a Western emphasis in its composition. However, world events and the 1977 restructuring of committee jurisdiction have affected the geographic composition of the panel in the last decade. A few Senators from energy-poor States have been attracted to the panel to protect their State's interests in the face of energy shortages and rising energy prices. Also, the addition of domestic atomic energy production, coal, and other energy matters to the Committee's jurisdiction attracted Members seeking to serve the interests of their State. Finally, energy issues have enticed Senators with personal policy interests in energy. Yet, for the most part, jurisdictional changes have served to reinforce the Committee's constituency orientation.

Legislative responses to the 1977 reforms have not been without problems. Jurisdictional overlap remains in the area of nuclear power, especially with the Environment and Public Works Committee. Other jurisdictional disputes with the Environment Committee occur on irrigation, reclamation, and other water projects and on the appropriate use of Federal lands and minerals in the Arctic National Wildlife Refuge. Overlaps still exist on Indian Affairs issues, despite the creation of the Select Committee on Indian Affairs and its subsequent reauthorization as a permanent select committee. The Energy Committee occasionally faces overlap with the Commerce Committee on pipelines and especially oil pipeline issues. Finally, some problems remain in the area of national forests created from the public domain, as the distinction between the Agriculture Committee and the Energy Committee's jurisdiction is not always clear.

CHAPTER TWO

PUBLIC LANDS AND THEIR RENEWABLE RESOURCES

INTRODUCTION

Since its inception as the Committee on Public Lands in 1816, the acquisition, disposal and management of public lands and their resources has been a central interest of the Committee. What to do with public lands owned by the Federal Government, or Federal lands, has been a major issue throughout the Nation's history; it frequently was the dominant domestic issue in the earliest years, when the original States ceded large areas west of the Appalachian Mountains to the Federal Government between 1781 and 1802. Starting with the Louisiana Purchase of 1803, the country repeatedly acquired new lands. A major question was how best to integrate these additional lands into the Nation. Decisions made by the Committee to address this question had a major influence on the country's development. Table 2 summarizes the major acquisitions.

Since 1816, the Committee has answered the question of what should be done with these lands in several different ways, as illustrated in Figure 1. For the country's first century, the primary goal was disposal of Federal lands so that they could be put to some useful purpose by the citizens of the developing country. Until the 1890s, when several national parks and the forest reserve system were established, alternatives to disposal were seldom considered; the question was "how", not "whether." After about 1890, disposal competed with efforts to reserve, or designate, remaining lands and their resources for general public benefit.

While Congress first acted on an alternative to disposal in the 1830s, the first significant action was taken in 1872, when Yellowstone National Park was designated as the initial "crown jewel" in what was to become the National Park System. Debating whether Federal lands should be designated, or reserved, for a particular use or for a particular management system, because of their values, gradually became a major congressional activity. The view that these lands would be most effectively used if in private hands was gradually replaced by the view that the Federal Government should retain especially valuable resources for worthy purposes for the benefit of the general public. Reservations in large numbers and involving large areas started in the 1890s. Subsequent acts dealt with mining activities, power development, national parks, monuments, and wildlife refuges. Reservation of public lands slowed after the Taylor Grazing Act (P.L. 73-482, 48 Stat. 1269) was enacted in 1934. In the 1960s and 1970s, there was a significant burst of activity which added numerous parks, monuments and historic sites, refuges, wilderness area, and scenic river and trail corridors. Many of these designations included provisions to purchase additional lands. Some legislation, such as the 1964 Wilderness Act (P.L. 88-577, 78 Stat. 890), recognized new values for lands already in the Federal estate.

Congress and the executive branch assigned missions to the agencies created to manage these designated lands, and their resources. Key management agencies were the National Park Service, the Forest Service, the Bureau of Land Management, the Bureau of Reclamation, the Fish and Wildlife Service, and their predecessors.

TABLE 2.—U.S. TERRITORIAL AND PUBLIC DOMAIN ACQUISITIONS

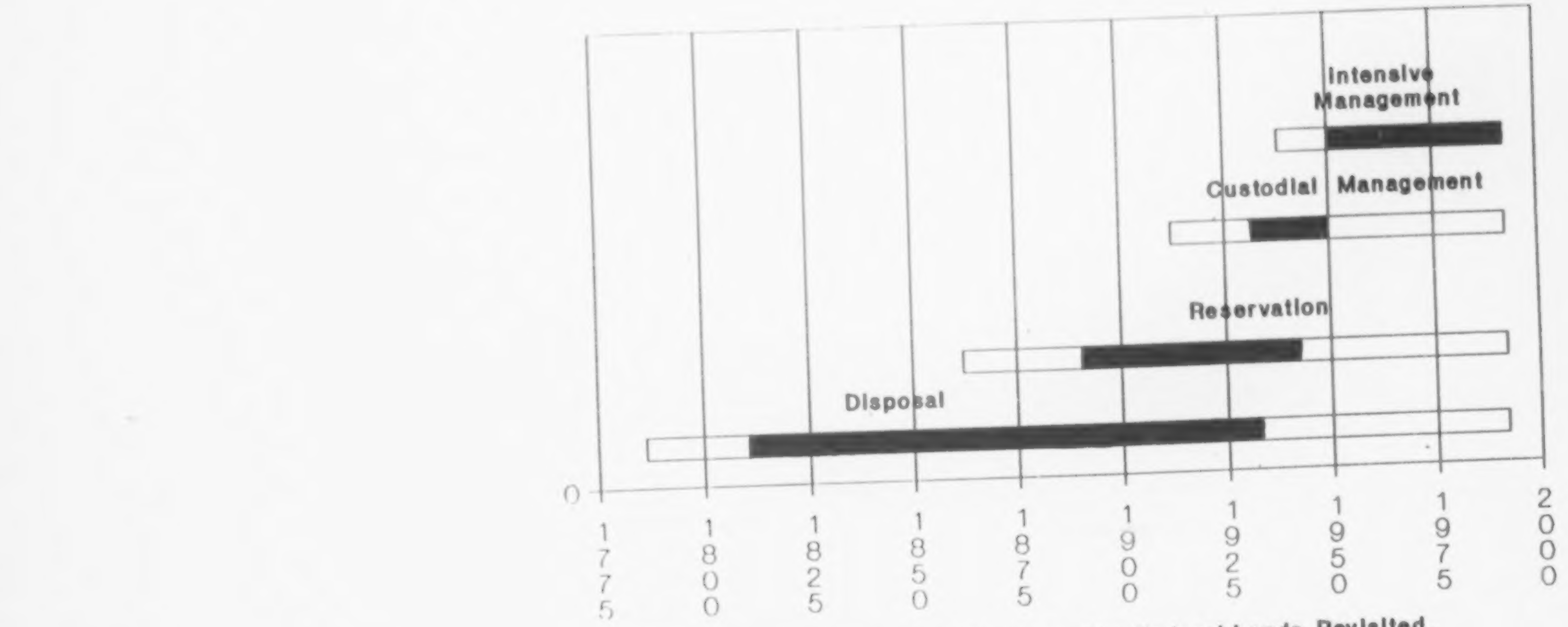
	Year	New U.S. territory	New public domain lands	Acquisition costs
Original Territory	1790	568,758,400	0	0
State cessions	1781–1802	0	236,825,600	6,200,000
Louisiana Purchase	1803	529,911,680	529,911,680	23,213,568
Red River Basin	1782–1817	29,601,920	29,601,920	0
Cession from Spain	1819	46,144,640	46,144,640	6,674,057
Texas Annexation	1845	249,691,520	0	0
Oregon Compromise	1846	183,386,240	183,386,240	0
Mexican Cession	1848	338,680,960	338,680,960	16,295,149
Purchase from Texas	1850	0	78,926,720	15,496,448
Gadsden Purchase	1853	18,988,800	18,988,800	10,000,000
Alaska Purchase	1867	378,242,560	378,242,560	7,200,000
Hawaii, et al	1898–1947	12,055,700	0	0

Sources: U.S. Department or the Interior, Bureau of Land Management. Public Land Statistics, 1986. Washington, U.S. Government Printing Office, March 1987, p. 2.

U.S Bureau of the Census. Historical Statistics of the United States: Colonial Times to 1979: Part 1. Washington, U.S. Government Printing Office, Sept. 1975, p. 428.

FIGURE 1

Major Eras In Federal Landownership And Land Management
In The United States Between 1782 and 1988



Source: Adapted from: Marlon Clawson. The Federal Lands Revisited. Washington, Resources for the Future. 1983. p. 16.

Figure 1 divides the management activities of these agencies into two phases. Initially, most management was relatively passive, or custodial. Starting in the early 1950s, management became more intensive. In 1951, for the first time, Federal lands as a whole produced greater revenues than total expenses. Continual growth in management efforts since the 1950s can be measured in many ways, from recreational use of all the Federal lands to timber removal. Management also became more intensive with the flood of laws that required more detailed analysis of resource potential and allocation. The first of these laws, the Multiple Use-Sustained Yield Act of 1960 (P.L. 86–517, 74 Stat. 215), which applied to forest resources, was followed by other acts that addressed wilderness, and resource planning. Other legislation in the 1970s, especially the National Environmental Policy Act (NEPA, P.L. 91–190, 83 Stat. 852), further defined the Federal role in managing resources for the public good.

Disposal

Congress enacted numerous laws in the early years of the country to transfer Federal lands to State or private ownership. Federal land grants began in 1802 with the admission of Ohio to the Union and the granting to the State of 1 square mile out of each 36-square-mile township for the support of its common schools. Land grants were subsequently extended to a number of other purposes: higher education (such as the land grant colleges), railroads, roads and related transportation purposes. Swamps and other land of little apparent value at that time were granted to States to affect their improvement. A sampling of the major disposal laws includes the Swamp and Overflow Act of 1850 (9 Stat. 519), the Homestead Act of 1862 (12 Stat. 392), and the General Mining Law of 1872 (17 Stat. 91).

The first land office was established in Ohio in 1800 to administer the disposal effort, and the General Land Office was established in 1812. In total, the Federal Government has disposed of nearly 1.2 billion acres, about two-thirds of the 1.8 billion acres of public domain owned by the Federal Government.

Inititally, land was auctioned or sold under a general process set up by the Third Congress in the 1796 Land Act (1 Stat. 464). A major policy issue was the minimum size of land units to be auctioned or sold. Land speculators sought large tracts while settlers argued for small tracts.

THE HOMESTEAD ACT OF 1862

With the 1862 enactment of the Homestead Act (12 Stat. 392), the rate of settlement accelerated rapidly, as this law favored conveyance to individuals if they settled on the land and improved it. The 1862 law was augmented by the Desert Land Act of 1877 (19 Stat. 377), which permitted settlers to file for more than the 160 acres allowed under the 1862 law if they irrigated. In 1909, the Enlarged Homestead Act (36 Stat. 863) provided for claims of up to 320 acres. Homesteading has been the most significant method of transfer, with 288 million acres being tranferred under these authorities. A total of about 863 million acres was transferred to private ownership between 1871 and 1985.

In addition, grants to assist construction of railroads, wagon roads and canals (predominantly in the 1850s and 1860s) transferred 141 million acres out of Federal ownership. The remaining 343 million acres have been sold or otherwise transferred under various authorities, including grants to veterans and to other individuals, sales to individuals, entries under mineral claims, and sales and transfers to local governments. For example, the General Mining Law of 1872 authorized claims to be made by prospectors who discovered gold, silver, iron, or other ores on public lands. The claim enabled the prospector not only to mine the ore, but also to obtain title to the land, including surface resources. The law was used not only for mining purposes, but also by claimants who obtained land for purposes other than mining.

The Federal Government has also granted 282 million acres to various States. The majority of these lands, 99 million acres, were granted for schools and other institutions, while another 65 million acres were granted for swamp reclamation. The single largest grant was in 1958 to the State of Alaska; the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) authorized the State to select up to 103.35 million acres (under certain constraints). Title transfer for these selected lands has not yet been completed. In addition, the 1971 Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688) authorized the various regional and village Native corporations to select 44 million acres of Federal land (with the numerous constraints identified in the Act), and the selection and conveyance of these lands is also not yet complete.

Reservation

Designation of lands, or withdrawal for specified purposes, began with park lands, followed by forest lands and wildlife protection areas. The remaining areas, or "left over" lands were not reserved for specific purposes. In 1832, Congress enacted the first legislation to reserve public lands, protecting public access to 47 hot springs in the Arkansas Territory. The world's first national park, Yellowstone National Park, was authorized in 1872. This law set out a dual mandate for the park, one that has been a subject of conflict ever since: the law required that the area be maintained for public use and recreation, but at the same time that the resources of the area be preserved and protected. At the time, there appeared to be little conflict between the two, but the conflict now looms as one of the major park management issues. In 1890, the next three parks were established, to be augmented by a number of other designations during subsequent Congresses. Also in 1890, Congress established three national historic military parks, at Chickamauga, Chattanooga and Antietam, and added to this system during the following decade. It is no coincidence that accelerated activity to reserve public lands occurred about the time that historian Frederick J. Turner pronounced the frontier to be closed.

Under the Antiquities Act of 1906 (34 Stat. 225) Congress allowed the President to proclaim national monuments to protect areas with historic and scientific values. President Theodore Roosevelt quickly availed himself of this authority, proclaiming nine national monuments in 1906 and 1907.

Until Congress established the National Park Service within the Department of the Interior in 1916, there was no formal management structure for these monuments and parks. But the Park Service was only responsible for the lands that had been under Department of the Interior jurisdiction.

> Sec. 2. That the director shall, under the direction of the secretary of the Interior, have the supervision, management, and control of the several national parks and national monuments which are now under the jurisdiction of the Department of the Interior, and of the Hot Springs Reservation in the State of Arkansas, and of such other national parks and reservations of like character as may be hereafter created by Congress: *Provided,* That in the supervision, management, and control of national monuments contiguous to national forests the Secretary of Agriculture may cooperate with said National Park service to such extent as may be requested by the Secretary of the Interior.[1]

The War Department administered the national military parks, while the Forest Service in the Department of Agriculture administered the national monuments located on Forest Service lands. A 1933 reorganization moved management responsibilities for all these lands to the Park Service. Under the Legislative Reorganization Act of 1970 (P.L. 91-510), jurisdiction over national cemeteries was transferred from the Interior and Insular Affairs Committee to the newly established Committee on Veterans' Affairs.

The National Forest System can be traced back to 1891, when Congress gave the President authority to establish forest reserves from public lands. The 1891 legislation included little legislative history to define the purposes of this effort. By 1897, Presidents Benjamin Harrison and Grover Cleveland had proclaimed 29 reserves totalling more than 39 million acres. As reserves were established, Congress became concerned about the rapid pace and large scale of designations. It moved several times to restrict the President's authority to declare reserves. Congress also moved to define better the purpose of the forest reserve system in the Organic Administration Act of 1897 (30 Stat. 11).

Despite these restrictions, President William McKinley added 12 forest reserves totaling 7.2 million acres between 1896 and 1900, while President Theodore Roosevelt accelerated this effort, adding 109 reserves totaling more than 125 million acres during his two terms in ofice. Initially, the reserves were administered by the General Land Office in the Department of the Interior. In 1905, the reserves were transferred to a new agency in the Department of Agriculture, the Forest Service, and two years later, the reserve system was renamed the National Forest System.

The remaining vacant public lands were administered by the General Land Office, which generally was in the business of disposing of Federal lands. Most of the remaining lands were drylands, suitable for grazing. The Taylor Grazing Act of 1934 attempted to address deteriorating conditions on public lands due to overuse and the drought and depression of the 1920s and 1930s. The U.S. Grazing Service was established in 1936 to implement the Act.

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[1] P.L. 235, to establish a National Park Service, 1916.

Although the Taylor Grazing Act focused on grazing management, it also expressly recognized that public lands would be administered "pending (their) final disposal". Thus, while the Act intensified Federal management of lands under its jurisdiction, the assumption of eventual transfer to private or state ownership was perpetuated. However, the practical application and general attitude towards public lands moved increasingly toward retention by the Federal Government.

In 1946, the Bureau of Land Management was formed from a merger of the General Land Office (which included the former O&C Revested Lands Administration and the Alaskan Fire Control Service) and the U.S. Grazing Service. The Bureau was made responsible for all the lands that had not been allocated to other uses, as described above, and manages more land than any other agency.

Management

Congress provided little specific direction to agencies responsible for the public lands and their resources in the early years. Resource monitoring, planning and detailed management were not features of programs operated by these agencies before the 1960s. But starting about three decades ago, Congress began to enact numerous laws that direct these agencies to develop a better inventory of the resources under their responsibility, and to develop programs to plan more effectively for and manage the resources for the purposes for which the lands were reserved. Some of these enactments were directed at public lands, while others were directed at environmental conditions, such as air quality and water quality.

Congress has also enacted general environmental legislation that requires additional planning and extensive public involvement. The Senate Committee on Interior and Insular Affairs, under Chairman Henry M. Jackson (D–WA), took the lead in enacting the National Environmental Policy Act of 1969 (NEPA), which required a detailed analysis of all "major Federal actions that significantly affect the quality of the human environment." This enactment was the culmination of more than a decade of deliberations within the Committee over alternatives to provide the Federal Government with general policy direction in environmental affairs.

The Committee also took the lead in shaping legislation to provide land use planning assistance to the States. Chairman Jackson tied consideration of this issue to environmental concerns, and sought legislation that would help States develop and administer land use planning programs, and also provide greater coordination of Federal programs that affect land use. The Committee reported legislation in the 91st, 92nd and 93rd Congresses, and the Senate passed bills in the latter two. However, the House failed to act on comparable legislation, and the Committee ceased its efforts in this area after 1975.

The change to a more intensive management approach can be traced, in part, to the Public Land Law Review Commission. The

Commission, established in 1964, was charged with studying existing public land laws and formulating recommendations for revision. All Senate Members of the Commission were members of the Committee. The Commission submitted 350 recommendations to Congress in 1970 in a seminal volume titled "One Third of the Nation's Land". A number of bills were introduced in the early 1970s to implement many of these recommendations, which captured the trend of more active agency involvement in resource management.

One of the congressional responses to this report and to growing concern about the management of the Federal estate was to enact the Forest and Rangeland Renewable Resources Planning Act of 1974, (RPA, P.L. 93-378, 92 Stat. 353), the National Forest Management Act of 1976 (NFPA, P.L. 94-588, 90 Stat. 2949), and the Federal Land Policy and Management Act of 1976 (FLPMA, P.L. 94-514, 90 Stat 2744). RPA focuses on the national long-range direction for forest conservation, while NFMA provides guidance on integrating the national direction with the planning and management for National Forest System units. FLPMA established, amended, or repealed many land and resource management authorities. FLPMA is also called the BLM Organic Act because it consolidated and articulated the management responsibilities of the Bureau of Land Management.

While FLPMA set out major, overall public land management and policy objectives, several other laws were more specific to particular resources. The Public Rangelands Improvement Act of 1978 (PRIA, P.L. 95-514, 92 Stat. 1803) established more specific management guidelines for the Bureau of Land Management and the Forest Service in response to continuing concern over the deteriorating condition and declining productivity of public rangelands.

Congress has also enhanced management of these public resources by creating special systems to protect wilderness areas, wild and scenic rivers, and trails found on all Federal lands. These special features are to be protected in designated areas by the existing agencies within the guidelines articulated by Congress. The wilderness system came first, established in the Wilderness Act of 1964. The initial Act designated 9.1 millon acres, and numerous acts of Congress have added almost 80 million additional acres. Wilderness designations can be controversial because they strictly limit the permitted uses. The Wild and Scenic Rivers Act of 1968 (P.L. 90-542, 82 Stat. 906) established a system of designated free-flowing streams. Congress has acted several times to expand the system to its present size—71 rivers with almost 7,400 river miles. Fifty new rivers were added in the 100th Congress. The National Trails System Act of 1968 (P.L. 90-543, 82 Stat. 919) authorized two trails, and subsequent legislation added several other trails. The system now exceeds 24,000 miles.

All three of these special systems include a planning component that requires specified Federal agencies to study appropriate areas for possible inclusion into the respective systems, and to make recommendations to Congress based on those studies. These studies provide the basis for congressional deliberations on expansion of these special systems.

Federal Lands Today

The size of the Federal estate has remained relatively constant in recent years. Table 3 shows the number of acres by State that each major land protection agency was managing in 1987, and Figure 2 shows where those lands are located around the country. The Committee continues to be a center of discussion and debate over the most appropriate Federal role in managing these lands.

Disposal reemerged as a serious option in the late 1970s. The "sagebrush rebellion," was an effort by Western States in the early 1980s to cause the Federal Government to divest itself of some of the Federal lands. Nevada brought suit, claiming the Federal Government was only holding certain public lands in temporary trust, pending eventual disposal. In 1981, the U.S. District Court, however, held for the Federal Government, thus ending this effort. Legislation was introduced that would require the President to inventory Federal assets, including lands, and to dispose of unneeded or surplus assets. The Committee held hearings on this proposal in May 1982. In the meantime, Administration efforts to dispose of surplus properties has resulted in the sale of new assets and a minuscule portion of the Federal land base.

Interest in designations of special lands continues. In every Congress, the Committee considers numerous bills on wilderness, wild and scenic river or trail designations, as well as proposals to expand park boundaries, and to allow exchanges of land between Federal owners and private parties or States. In recent Congresses, the pace of consideration of national park and wildlife refuge designations has slowed. This slower pace is closely tied to the Federal budget deficit, which requires a strong argument before Congress will commit money to new undertakings, and also reflects the fact that most appropriate areas from the public domain have already been designated.

Interest in management continues to dominate the Committee's attention to public lands. As funds are less available to acquire new resources and competing pressures grow on many existing resources, the Committee is increasingly concerned with managing the public estate for the public's benefit. These debates have addressed many topics, including compatible uses, fair market value, and management of adjacent lands. The Committee will continue to be at the forefront of these issues, as Congress provides direction to the executive agencies on the public goals for resource management, and the best ways to ensure that those goals are realized.

TABLE 3.—AGENCY LAND OWNERSHIP BY STATE

State	Department of the Interior				Department of Agriculture
	Percentage of Federal ownership (1)	Bureau of Land Management (2)	National Wildlife Refuge System (3)	National Park Service (4)	National Forest System (5)
Alabama	3.46	110,691	51,326	6,348	649,156
Alaska	87.11	155,261,548	77,061,727	52,914,174	22,750,439
Arizona	43.57	12,285,326	0	2,669,783	11,275,763
Arkansas	10.12	290,757	215,568	98,676	2,483,510
California	46.23	17,169,394	320,135	4,568,183	20,524,431

TABLE 3.—AGENCY LAND OWNERSHIP BY STATE—Continued

State	Department of the Interior				Department of Agriculture
	Percentage of Federal ownership (1)	Bureau of Land Management (2)	National Wildlife Refuge System (3)	National Park Service (4)	National Forest System (5)
Colorado	36.38	8,288,840	61,341	585,845	14,458,115
Connecticut	0.44	0	338	4,766	24
Delaware	2.40	0	25,404	0	0
District of Columbia	27.79	0	0	6,943	0
Florida	12.33	25,431	490,371	2,177,380	1,099,762
Georgia	6.16	0	468,150	40,366	866,976
Hawaii	16.73	0	268,978	245,314	1
Idaho	63.78	11,953,795	87,574	86,421	20,455,401
Illinois	1.40	3	118,174	12	263,363
Indiana	1.89	40	7,724	9,334	187,939
Iowa	0.45	0	74,312	1,663	0
Kansas	1.11	985	51,443	427	108,177
Kentucky	5.50	0	2,174	79,310	665,336
Louisiana	4.09	309,221	360,209	7,866	600,231
Maine	0.76	0	32,363	56,246	53,120
Maryland	3.12	0	27,501	34,840	0
Massachusetts	1.65	0	12,200	31,366	0
Michigan	9.67	75,786	113,207	629,449	2,802,129
Minnesota	6.76	186,639	466,181	136,997	2,805,844
Mississippi	5.55	57,772	127,495	102,262	1,147,574
Missouri	4.68	2,775	55,692	53,692	1,472,668
Montana	30.27	8,920,710	1,160,092	1,219,005	16,795,864
Nebraska	1.46	7,308	159,037	5,370	351,838
Nevada	85.13	48,714,404	2,373,741	776,946	5,103,284
New Hampshire	12.84	0	2,373	7,815	714,646
New Jersey	3.14	0	44,152	34,533	0
New Mexico	33.27	12,855,255	382,167	249,871	9,325,877
New York	4.76	0	23,522	31,963	13,232
North Carolina	7.07	0	266,751	367,635	1,219,843
North Dakota	4.37	67,331	1,288,382	71,057	1,105,789
Ohio	1.23	40	8,429	14,872	179,213
Oklahoma	1.97	3,026	143,351	9,508	295,665
Oregon	48.75	15,688,783	547,802	194,322	15,621,087
Pennsylvania	2.22	0	9,191	42,534	510,691
Rhode Island	0.71	0	1,339	5	0
South Carolina	6.03	0	188,310	21,027	606,139
South Dakota	5.59	279,473	538,477	183,262	1,996,898
Tennessee	7.44	0	96,163	266,664	625,890
Texas	1.98	0	327,866	1,099,211	752,793
Utah	63.70	22,129,277	101,736	2,021,081	8,040,065
Vermont	5.42	0	5,943	5,058	325,534
Virginia	9.63	0	110,279	308,010	1,638,414
Washington	29.18	311,292	186,663	1,930,735	9,144,275
West Virginia	7.56	0	456	8,257	1,003,470
Wisconsin	5.40	158,240	221,457	59,671	1,507,158
Wyoming	50.42	18,412,451	75,961	2,392,554	9,254,769

Sources: (1) General Services Administration. Lands of the United States and Possessions. Table 4, Comparison of Federally Owned Land With Total Acreage of States, Fiscal Year 1986.

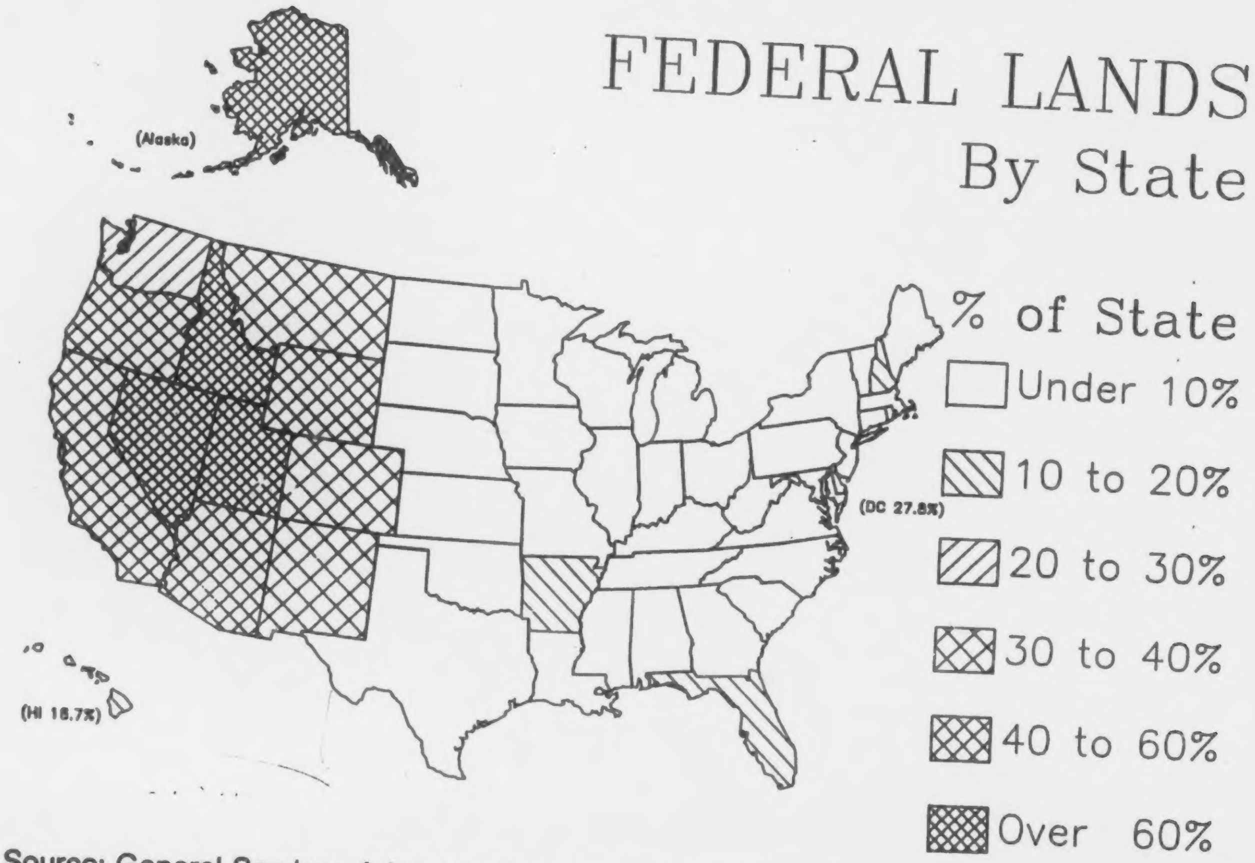
(2) U.S. Department of the Interior, Bureau of Land Management. Public Land Statistics, 1987.

(3) U.S. Department of the Interior. Annual Report of Lands Under Control of the U.S. Fish and Wildlife Service, as of September 30, 1987.

(4) National Park Service, Land Resources Division. Listing of acreages by State, as of September 30, 1987.

(5) U.S Department of Agriculture, Forest Service. Land Areas of the National Forest System as of September 30, 1987.

Figure 2


FEDERAL LANDS
By State
(Alaska)
(DC 27.8%)
(HI 18.7%)
% of State
Under 10%
10 to 20%
20 to 30%
30 to 40%
40 to 60%
Over 60%

Source: General Services Administration. Acreage Owned by the Federal Government. (Excludes trust properties.)

PROTECTING LAND AND CULTURAL HERITAGE, PROVIDING RECREATION OPPORTUNITIES

YELLOWSTONE: AMERICA'S FIRST NATIONAL PARK

First known picture of "Old Faithful" geyser in Yellowstone National Park by photographer William Henry Jackson in 1872 courtesy of National Park Service

In 1871, Committee on Public Lands Chairman Samuel C. Pomeroy (R-KS) introduced legislation that would eventually come to be a world model for the permanent protection of outstanding natural resources. His bill, S. 392, proposed "to set apart a certain tract of land lying near the headwaters of the Yellowstone River as a public park." When the Congress approved Pomeroy's bill the next year, they had established Yellowstone Park, the first area set aside from the public lands of the Nation because of its scenic and geological wonders. It was also the first in a series of park authorizations by the Congress that would lead in 1916 to the authorization of a government entity to manage these lands, the National Park Service.

There was much about this initiative to admire. The dispatch with which it was handled is one such point. Pomeroy noted in reporting the bill from his Committee that "it will be remembered that an appropriation was made last year [1871] of about ten thousand dollars to explore that country. Professor Hayden and party have been there, and this bill is drawn on the recommendation of that gentleman to consecrate for public uses this country for a public park."

Also noteworthy was the care taken in setting the boundaries for the park. Chairman Pomeroy responding during Senate floor debate on January 23, 1872, to questions about the size of the proposed park stated, "He [Hayden] was careful to make a survey so as to include all the basin where the Yellowstone has its source." This early ecological foresight was not always to be repeated in establishing later park units, and thus becomes all the more remarkable for its time.

Perhaps most outstanding about the Committee's quick embrace and support of the bill (it was introduced on December 18, 1871 and reported by the Public Lands Committee on January 22, 1872), was the fact that the action was to retain public lands when the more usual business of the Committee was to facilitate the disposal of these lands.

Chairman Pomeroy's initiative in the protection of the Nation's natural heritage would be followed in later years by other distinguished chairmen of the Committee, such as Henry Jackson, and its subcommittees, such as Alan Bible (D-NV), who together vastly expanded the extent and scope of the National Park System. The cumulative accomplishments of the Committee are seen today in a National Park System of 337 units on nearly 80 million acres in 49 States and the District of Columbia, Guam, Puerto Rico, Saipan, Northern Marianas, and the Virgin Islands. These units range in size from an individual building such as Federal Hall National Memorial in lower Manhattan to the over 12 million largely wilderness acres of Wrangells National Park and Preserve in Alaska. The system which has grown encompasses our natural history in its infinite variety, our prehistoric culture, our political, military and industrial history, and the need near our urban centers for open spaces in which to play and ponder. This diversity has grown over the 116 years since Yellowstone Park was authorized by Congress, and the Committee continues to respond to changing needs and desires for resource preservation, provision of outdoor recreation opportunities, and new cooperative arrangements with other governments and organizations. Some highlights of these changes are noted below.

Abroad, this national park legacy of Chairman Pomeroy, his Public Lands Committee, and their successors is seen in over 100 nations containing over 1,200 national parks or equivalent reserves.

Other Actions of the "Old" Committee on Public Lands

Before the Public Lands Committee was reorganized in 1921, it built significantly upon the Yellowstone Park Foundation. Three major parks were established in 1890, Yosemite, Sequoia and General Grant. The Committee moved expeditiously on the Yosemite proposal, receiving it from the House of Representatives on September 30, 1890; Chairman Plumb reporting it to the Senate floor and receiving passage of the measure the same day, to have it signed into law the next day.

Responding to a need to slow the traffic in antiquities from public lands that was erasing much of our native cultural legacy, on May 24, 1906, the Committee unanimously reported S. 4698, a bill for the protection of American antiquities. The measure passed the Senate the same day and was sent to the House where it was approved on June 5, 1906 and eventually signed into law by President Theodore Roosevelt on June 8, 1906. The law provided an important sharing of authority over public lands between the Congress and the President, for it gave the President the authority to establish national monuments through withdrawal of public lands by executive order. The process also showed a high degree of cooperation within the Congress in that the Senate bill was based on earlier work on the issue by Mr. John Lacey (R–IA), Chairman of the counterpart Committee in the House.

President William Howard Taft, in 1912, suggested the need for a central organization for the growing number of national parks (14) and monuments (21 administered by Interior, others by Agriculture), each of which was independently administered within the Department of Interior or Agriculture, or the War Department. Senator Reed Smoot (R–UT) later authored legislation to address the matter of administration, but it was a House measure that the Committee approved in 1916. He noted during the Senate consideration of the bill on August 5, 1916 some of the financial and administrative economies to be realized, stating, "The way it is now, some of the parks are under the War Department, some are under the Interior Department, appropriations are made for other departments, and we can hardly keep track of the expenses." The bill was signed into law by President Woodrow Wilson on August 25, 1916.

THE COMMITTEE ON PUBLIC LANDS AND SURVEYS

EARLY HISTORY OF THE NATIONAL PARK SERVICE

National Park Service—Visitors in the Parks
"Auto camp in Mammoth Hot Springs 1922." Yellowstone National Park U.S. Dept. of the Interior Photo.

On the eve of the Senate committee reorganization of 1921, a jurisdictional end run saw legislation to build a dam in Yellowstone National Park referred to the Committee on Irrigation and Reclamation rather than to the Committee on Public Lands. Nonetheless, arguments against the proposal demolished the proponents' case, and the Park was saved from the development. Later committee reorganization in 1947 would bring together in a single committee a broader range of natural resource concerns, including reclamation and national parks.

For the Committee on Public Lands and Surveys, however, the period from 1921 to 1946 was to present a number of challenges to maintaining and expanding the increasingly popular system of parks and monuments.

Horace Albright, second Director of the National Park Service, in his book with Robert Cahn, "The Birth of the National Park Service" recounted one unusual instance of Senate Committee "oversight" when he was Superintendent at Yellowstone National Park. Of Senator Tasker Oddie, a frequent visitor to the park, Albright states, "the Senator asked to be given a place on our ranger force, serving without pay. . . . I loaned him one of my uniforms and assigned him to a mounted patrol. He became a valuable ranger, and that experience turned him into one of our staunchest supporters in the Senate."

Part of the growth of the National Park System during this era came not at the instigation of Congress, but through President Theodore Roosevelt's transfer of about 50 areas administered by the War Department, as well as national monuments administered by the Department of Agriculture and parklands in the District of Columbia. The Committee on Public Lands and Surveys, however, had tried to accomplish the transfer of 19 War Department units, including national military parks, national battlefields, national monuments, and several other variations in nomenclature, to the National Park Service as early as 1928. A bill introduced by Chairman Gerald Nye (R-ND), S. 4173, of the 70th Congress, was reported from the Committee without amendment and passed the Senate on May 10, 1928. There was no further action in the other body, where the bill had been referred to the Committee on Military Affairs.

Concern with preservation of historic sites, buildings and objects became the subject of Congressional action in February 1935 with the introduction of S. 2073 by Senator Harry F. Byrd (D-VA). First referred to the Committee on the Library, the bill was referred to the Committee on Public Lands and Surveys on March 22. The Committee reported it out with amendments and it was approved by the Senate. After House amendments, the revised bill was approved and signed into law on August 21, 1935. The law provided a needed supplement to the protection afforded antiquities by the 1906 Act, in that more recent historic elements associated with the American Nation would be studied, protected, and in some cases, acquired by the Federal government.

The law also established an "Advisory Board on National Parks, Historic Sites, Buildings, and Monuments" which, although apparently intended to deal with historic matters, continues today as a major screening body for the Interior Secretary for all proposed additions to the park system.

The Committee, while active in seeing to the authorization of new units of the system, such as Grand Teton (1929), Everglades (1934), Big Bend (1935), and Olympic (1938) National Parks, was also very attentive to detail, moving legislation to facilitate the administration of the national parks. Chairman Nye, for instance, in 1930 introduced and secured passage of two bills, S. 195 and S. 196. The first enhanced the day-to-day business side of agency management, such as contracting for services or reimbursing employees for use or loss of personal property. The other strengthened the ability to protect park resources in seven parks by one or more means such as disallowing new rights-of-way for tramways, railways or roads, barring additional summer home leases, and granting new controls over mineral activity.

The years of World War II were a time of contraction for the National Parks, with massive reductions in manpower and services. The Committee, the Congress and the National Park Service were faced with difficult decisions, weighing the protection of park resources against the needs of the war effort. In some cases, particularly that of Olympic National Park, the pressure to use park resources was to continue in the booming postwar years, as well. The timber of Olympic was coveted, and several bills were introduced to allow its commercial use. Senator Henry Jackson introduced a bill to reduce the park by 56,000 acres as a means of preventing even further incursions on the park timber resources. John Ise, in his history of the parks, has written (p. 393), "the fact that none of the measures introduced was even reported showed that the Public Lands Committee was friendly to the park." Thus, through constructive inaction, the Committee shielded the park system from degradation, as it had done eariler when it did not act on various bills to add non-qualified areas to the National Park System.

Continued Expansion of the National Park System Under the Committee on Interior and Insular Affairs

Under this name, between the years of 1948 and 1977, the Committee was to greatly expand the size and diversity of the National Park System, initiate new systems for supporting recreation at the State and local levels, and incorporate new means of determining policy not only in recreation, but also in the related fields of public land management, and environmental protection. Specifically, during these years the Committee had a prime responsibility in authorizing the establishment of the Outdoor Recreation Resources Review Commission (1958), the Public Land Law Review Commission (1964), and the National Environmental Policy Act (1969). Each of these efforts tapped rich intellectual resources outside the Congress in a sustained manner not possible in the regular hearing process. In the case of the two Commissions, Members of the Committee, representatives from the other body, and presidential appointees spent several years studying and resolving problems and needs in outdoor recreation and management of the public domain. Prior to enactment of the legislation authorizing NEPA, a joint Senate-House colloquium on the environment organized by the Congressional Research Service brought concerned legislators together with scientific and policy leaders in a day-long session. These led to the drafting of a congressional "white paper" on the environment, which was used in support of the NEPA bill. The bill (S. 846) introduced by Senator Clinton Anderson (D-NM) in 1957 to establish the Outdoor Recreation Resources Review Commission (ORRRC), in retrospect, has proven to be one of the most productive pieces of recreation legislation since that authorizing Yellowstone National Park. For it was the findings and recommendations of ORRRC that set the legislative agenda for outdoor recreation for decades.

Setting the stage for the Commission, Senate Report 85-471, which accompanied S. 846, noted the fast rising trends in many kinds of outdoor recreation in the postwar years. For instance, for national forest facilities, "their use tripled in 20 years from 1926 until 1946—from 6 to 18 millions. Their use tripled again in the 10-year period between 1946 and 1956—from 18 to 53 millions." Looking ahead, the report stated, "the 41,000-mile national superhighway system authorized by Congress last year can further add to the rate of the upswing." Against this rapidly rising demand for outdoor recreation, the report cautioned, "there is a lessening of some of the resources available to the public", specifically noting that only 240 miles of the 3,700 mile Atlantic shoreline was open to the public, and that 200 of those miles were in two National Park units, Acadia and Cape Hatteras. Reported on June 19, 1957, less than a month after hearings, the bill was unanimously approved by the Senate on June 26. The other body, which had held hearings at the same time, reported the bill with amendments, and approved it in June 1958. The Senate concurred in the amendments and the Outdoor Recreation Resources Review Act was signed into law June 28, 1958 (P.L. 85-470, 72 Stat. 238).

The legislation mandated a bipartisan commission with four Senators and four Representatives, equally allocated among the two parties, to serve with seven knowledgeable citizens appointed by the President. The group was to report no later than September 1, 1961, but this date was later extended until January 31, 1962. The body, chaired by Laurance Rockefeller, held no public hearings, but was provided with a series of commissioned research reports and other information developed by Commission staff and appointed advisors and agency liaison officials.

In addition to Senator Anderson, Senate Interior Committee Members who were commissioners when the report was submitted were Senators Henry Dworshak (R-ID), Henry Jackson (D-WA), and Jack Miller (R-IA). Others who served during the Commission's life were Senators Frank Barrett (R-WY) and Arthur Watkins (R-UT).

The focus of the ORRRC recommendations was on Federal actions to expand and improve the Federal recreation estate and to provide financial and technical assistance to other levels of government. The Interior Committee moved quickly as it began to respond to these recommendations, although the final disposition on some of the items would come late in the decade of the 1960s. Among the first legislative responses was a law to promote the coordination and development of effective federal-state programs relating to outdoor recreation. P.L. 88-29 (77 Stat. 49) required the

Secretary of Interior to carry out certain recreation studies and duties, changes that formed the basis of operations for the administratively created Bureau of Outdoor Recreation.

A vital enactment following ORRRC was the enactment of the Land and Water Conservation Fund (LWCF, P.L. 88-578, 78 Stat. 897). This law provided for the annual availability of funds with which designated Federal agencies could acquire congressionally authorized new lands for outdoor recreation. Also, a share of the dollars appropriated each year were made available to the States on a matching basis for planning, land acquisition, and facility development. The Senate Interior Committee reported an amended version of H.R. 3846 which would have authorized Federal agencies to use some of the available money for development purposes. Senate Report 88-1364, which accompanied H.R. 3846, stated, "the committee was of the opinion that addition of more lands alone would not meet immediate needs and problems; therefore the committee amendment authorizes use of funds for development purposes on the Federal lands". In conference, the language of the other body was accepted, limiting the use of the Federal share of LWCF dollars to land acquisition only.

Senator Clinton P. Anderson (D-NM) made significant contributions to the National Wilderness Preservation System and in the passage of three major national conservation proposals—the outdoor resources recreation review, the multiple-use sustained yield policy and the wilderness bill which had been introduced for the first time by Senator Hubert Humphrey of Minnesota. In addition, Senator Anderson, while he was Chairman of the Interior Committee during the 87th Congress (1961-1962), played a major role in shaping and resolving the Congressional study and debate on the Wilderness Act of 1964, which was signed into public law by President Lyndon Johnson on September 3, 1964. This Act also made permanent the nation's first administratively designated wilderness, the Gila Wilderness in the Gila National Forest in New Mexico, as well as ensuring protection for other areas of special pristine lands that provide valuable solitude, critical watershed, wildlife habitat and preservation of our national history.

The Wilderness Act of 1964, the Wild and Scenic River Act of 1968, and the National Trails Act of 1968 are among the other major recommendations of ORRRC which were substantively shaped by the Committee on Interior and Insular Affairs on their way to becoming public law. Each of these three laws authorized systems to be managed by existing Federal agencies, primarily the Forest Service and the National Park Service; designated initial units as components of these systems; and established procedures for the evaluation of possible additions to each system. This Committee has overseen tremendous subsequent growth in all three systems, adding to the diversity of available outdoor recreation opportunities across the country. The Federal rivers and trails systems have been extensively supplemented by counterpart State designated units, in part because the authorizing legislation encouraged such additional designations. The Wilderness Act did not offer recognition for State wilderness designations, and State wilderness areas are not numerous.

The 1963 Act providing the charter for the Bureau of Outdoor Recreation (see P.L. 88–29, above) had as one purpose the encouragement of State outdoor recreation initiatives. One requirement of the law was for the Secretary to prepare and submit every five years a comprehensive nationwide outdoor recreation plan, drawing, in part, upon the plans prepared by each State. When the first report, due to be submitted to the Congress in 1968, was not made available but was superseded by a new report in December 1973, Chairman Jackson acted to make public the original plan. He had the original plan, *The Recreation Imperative,* published as a committee print in September 1974. He prefaced the study, in part, by stating, "If the Congress and the American people who commissioned and paid for this study are to intelligently and conscientiously assess the needs, present and future of this Nation, this material should be made available. Accordingly, I requested Mr. James P. Beirne, Special Counsel to the Committee, to obtain a copy of the final draft of the so-called 'Hickel Plan'." The original plan was then made available to State recreation professionals and their comments were solicited. The responses were published in an unnumbered 94th Congress committee print, *The Nationwide Outdoor Recreation Plans: Critiques by State Officials.*

The year 1959 marked an important milestone in park policy as the first unit of the National Park System to be acquired with Federal funds was added to the National Park System, the Minuteman National Historical Park in Massachusetts. Prior to this point, park system units had been set aside from lands already in public ownership, as with Yellowstone, or were donated to the Federal government, as with Acadia, Shenandoah, and Great Smoky Mountain National Parks. While the significance of this policy change goes unremarked in Senate Report 86–860, which accompanied H.R. 5892, the change would allow the Federal government to move more aggressively to provide outdoor recreation opportunities in non public land states. The initial estimated land acquisition cost of just over $500,000 for Minuteman would eventually swell to billions of dollars for Federal acquisition of park and recreation lands after the 1964 approval of the Land and Water Conservation Fund.

Spurred by the Kennedy White House, Congress moved quickly to further expand Eastern recreation opportunities through S. 857, authorizing the Cape Cod National Seashore on August 7, 1961. The law was to provide not only for preservation of an area of beach and dunes, but to help check the growth and development of the surrounding area. As Senate Report 87–428, which accompanied S. 857, noted, "The need for conservation and protection is urgent. House lots and cottages, which have already blanketed the south shore and left only isolated areas for public enjoyment, are fast converging on the outer cape. . . . The manmade modifications that are taking place are severe and continuing. Although these changes may seem harmless individually, collectively they will soon destroy much of the cape's natural appeal."

The Committee remained active in adding additional national seashores, approving Point Reyes, California and Padre Island Seashores in 1962, Fire Island, N.Y. in 1964, and Assateague Island, Maryland in 1965. The pattern continued into the 1970s with the approval of seashores in Gulf Island, Mississippi and Florida in

1971, Cumberland Island, Georgia in 1972, and Cape Canaveral, Florida in 1975.

The 1960s and 1970s were decades of active expansion in Federal lands dedicated to recreation and preservation of natural resource values. Senate Interior Committee Chairman Henry Jackson was a force in this expansion and in broadening of Federal recreation policy after his service on the Outdoor Recreation Resources Review Commission and later on the Public Land Law Review Commission. Graciously, however, he granted much of the credit for this expansion to his colleague Senator Alan Bible who had chaired the Parks and Recreation Subcommittee. On the occasion of Bible's retirement in 1974, Jackson paid this tribute in a Senate floor statement on December 17, 1974:

> Mr. President, for two decades, Senator Bible has served this Nation in this body. The list of his achievements reads like a roll call of our national parks and historic treasures. There is not an area of this country which has not reaped the benefits of his selfless service.

Chairman Jackson included a list of 97 historic, park, and recreation river, and trail areas that had been approved during Bible's service from the 87th to the 93rd Congress.

The remainder of the 1970s were also active in park and recreation affairs within the Interior Committee. Considerable time and effort went into the consideration of additions to the several systems of wilderness, wild and scenic rivers, and trails. Additionally, more units were approved for addition to the National Park System, areas such as Congaree Swamp National Monument, South Carolina (1976) and Chattahoochee National Recreation Area, Georgia (1978). Additional lands for the 1968 Redwood National Park were authorized in 1978 to preclude damage to the park from timbering on adjacent, privately owned lands. The Committee showed concern over integrity of other existing park system units, also, approving in 1976 the Mining in National Parks law (P.L. 94-429, 90 Stat. 1342), to further limit the extent of mining within units of the national park system; and holding oversight hearings that same year on the temporary closing of Crater Lake National Park in Oregon because of pollution.

The Committee also participated in shaping the National Parks and Recreation Act of 1978 (P.L. 95-625, 92 Stat. 3467), although much of the impetus for this measure came from the other body. The Alaska National Interest Lands Conservation Act of 1980 (ANILCA, P.L. 96-487, 94 Stat. 2371) provided another blockbuster boost to park and preservation efforts, essentially doubling the size of the park system as new areas were designated in Alaska, and vastly increasing the Wilderness and Wild and Scenic Rivers systems.

The 1980s have been a period for absorbing the explosive growth of the Federal recreation estate in the preceding two decades. The Reagan Administration has not pushed the acquisition of new areas for the National Park System, but instead stressed the economic development of public land resources, a situation causing much controversy for several years. The Congress has lagged in authorizing appropriations from the Land and Water Conservation

Fund, approving far less than the $900 million annual authorization (but more than the Administration requested) every year.

Senator Malcolm Wallop's (R-WY) Subcommittee on Public Lands and Reserved Waters held workshops in 1981 and 1982 seeking alternative means of land protection and management during the period of reduced Federal spending for these purposes. The proceedings of these wide-ranging sessions were published as Committee Prints 97-34 on Public Land Acquisition and Alternatives and 97-101 on Land Protection and Management.

Senator Wallop also introduced legislation in 1983, S. 1090, to authorize a new Outdoor Recreation Resources Review Commission to evaluate the adequacy of current law and policy for outdoor recreation. Responsibility for the legislation was shared with the Committee on Governmental Affairs. The measure unanimously passed the Senate late in the year, but died in the House in 1984. President Reagan in January 1985 created a similar body by executive order, the President's Commission on Americans Outdoors. Recommendations from that group are now being considered by the Congress.

Federal Forests and Forestry

RESERVATION

In 1891, Congress granted the President the authority to establish forest reserves from the existing public lands. This Act, commonly known as the Forest Reserve Act (26 Stat. 1103), was added to the Interior appropriations bill during the conference, and was not referred to the Public Lands Committee. However, the Committee had held several hearings on the subject of forest reservations during the 1880s, and had earlier reported a bill similar to the 1891 Act.

President Benjamin Harrison established the first reserve in 1891 in Wyoming, east of Yellowstone National Park, and 14 more in 1892. His successor, President Grover Cleveland, added five more reserves in 1893. Then, as a lame-duck President, Cleveland created 13 more reserves, doubling the acreage reserved, on Washington's Birthday in 1897. This action led Congress to enact the Organic Administration Act of 1897, limiting the purposes for which forests could be reserved and managed. This Act was also introduced as an amendment to the Interior appropriations bill, and was sponsored by Senator Richard F. Pettigrew, Chairman of the Senate Public Lands Committee at the time.

Initially, the administration of the forest reserves lay with the General Land Office, in the Department of the Interior. At the same time, the Department of Agriculture had a Bureau of Forestry to provide management assistance to forestland owners. Attempts to merge these two agencies began by 1902, and in 1905, the forest reserves were transferred to the Agriculture Department and the agency was renamed the Forest Service.

In early 1907, President Theodore Roosevelt established a forest reserve in the State of Washington, shortly before the lands were to be opened to settlers. The angered several western Senators, and led to an amendment to the Agriculture appropriations bills eliminating Presidential authority to create additional forest reserves in Washington, Oregon, Idaho, Montana, Wyoming, and Colorado. In the eight days between introduction of the amendment and his signing it into law, President Roosevelt issued 32 proclamations establishing 16 million acres of new forest reserves in those six States. This Act also changed the name of the reserves to national forests.

By the end of 1909, there were 150 national forests with 172 million acres. The National Park System has continued to grow slowly mostly under the authority of the Weeks Act of 1911 (36 Stat. 11) which authorized the purchase of forestlands for watershed protection. Today, there are 156 national forests with 186 million acres.

In addition to the national forests, the Federal Government owns about two million acres of highly productive timberland in western Oregon. Following a Supreme Court decision in 1915, the Federal Government revested lands which had been granted to the Oregon and California (O&C) Railroad. The 1916 Revestment Act for these O&C lands, cosponsored by Senator George Chamberlain of the Public Lands Committee, placed jurisdiction over the lands in the General Land Office, rather than with the Forest Service. Thus, the Bureau of Land Management, the successor to the General Land Office, also manages important Federal timberlands.

MANAGEMENT

As noted above, the Organic Administration Act of 1897 (also known as the Pettigrew Amendment) identified the purposes for which forest lands could be reserved and managed. The Act states that the reserves were:

> . . . to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of the citizens of the United States.

This authority was extended by the Weeks Act to purchasing additional lands for the National Forest System. The Clarke-McNary Act of 1924 (43 Stat. 653), cosponsored by Senator Charles NcNary, a long-time Member of the Public Lands Committee, expanded the Weeks Act authority to include timber production as a purpose for acquiring lands, and perhaps more importantly, established authority for cooperative forestry and fire protection programs among Federal, State, and local governments.

The O&C Act of 1937 (50 Stat. 824) established the purposes and management direction for the O&C lands in western Oregon. The bill was extensively debated by the Public Lands Committee before being enacted. The Act requires sustained yield for timber production, and directs that the lands be managed for the benefit of the counties; this Act remains the primary congressional authority for managing the O&C lands.

The management goals for the national forests were more fully articulated in the Multiple Use-Sustained Yield Act of 1960, which states:

> It is the policy of the Congress that the national forests are established and shall be administered for outdoor

> recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of this Act are declared to be supplemental to, but not in derogation of, the puposes for which the national forests were established as set forth in the Act of June 4, 1897.

The Act directs management of the national forests for the combination of uses that best meets the needs of the American people. Management of the resources is to be coordinated for "multiple use"—considering the relative values of the various resources, though not necessarily maximizing outputs or dollar returns, nor requiring that each area be managed for all or even most uses. The Act also calls for "sustained yield"—defined as a high level of resource outputs which can be maintained in perpetutity but without impairing the productivity of the land.

The environmental movement of the 1960s led to concerns about the damages caused by clearcutting. In 1971, the Public Lands Subcommittee of the Senate Interior and Insular Affairs Committee held five days of hearings concerning the practice, and in March 1972 issued an unnumbered committee print titled "Clearcutting on Federal Timberlands," which included recommendations on timber harvesting guidelines. These guidelines, known as the Church Clearcutting Guidelines after Subcommittee Chairman Senator Frank Church (D–IA), are still used to define appropriate conditions and limitations on clearcutting in the national forests.

Planning for and management of the National Forest System is guided by the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974, as amended by the National Forest Management Act (NFMA) of 1976. Together, these laws encourage foresight in the use of the Nation's forest resources, and establish a long-range planning process for managing the National Forest System. RPA focuses on national, long-range direction for forest conservation, while NFMA provides guidance on integrating national direction with the planning and management for the national forests.

RPA requires the Forest Service to prepare two documents: an Assessment of the Nation's overall natural resource situation and a Program to guide Forest Service policies and budgets. The Assessment, updated every 10 years, is to be a comprehensive examination of the renewable resources on all public and private forest and range lands (about two-thirds of U.S. land area), including future supplies of and demands for those resources. The Program, based on the findings of the Assessment and updated every five years, is to prescribe the role of the Forest Service in forest conservation and research, including management of the National Forest System. The Program is transmitted to Congress with a Presidential Statement of Policy, to serve both the Administration and the Congress in shaping Forest Service budgets and policies for the next five years. The draft 1990 RPA Program is expected to be released in early 1989.

NFMA directs the Forest Service to prepare comprehensive land and resource management plans that are integrated with the national RPA planning process for units of the National Forest System. NFMA requires an interdisciplinary approach to planning, including physical, biological, economic, and other sciences. NFMA provides detailed guidance on considerations in preparing the plans, and incorporated the Church Clearcutting Guidelines developed earlier. October 1, 1985, was the target for completing the first generation of forest management plans, with updates at least every 15 years. The process has taken longer than expected, with many plans still not completed, and has led to more complaints than anticipated, with multiple appeals on most of the completed plans.

Congress, and particularly the Senate Energy and Natural Resources Committee, has provided further management direction for numerous areas within the National Forest System by creating special designations. Some of the special designations, such as wilderness areas, also apply to Federal lands managed by other agencies, and are described in a later section of this report. In addition, the National Forest System includes several other types of congressionally enacted designations, including national recreation areas, wildlife preserves and game refuges, special management areas, and a host of other unique designations.

THE PUBLIC DOMAIN (THE "LANDS NOBODY WANTED")

RESERVATION

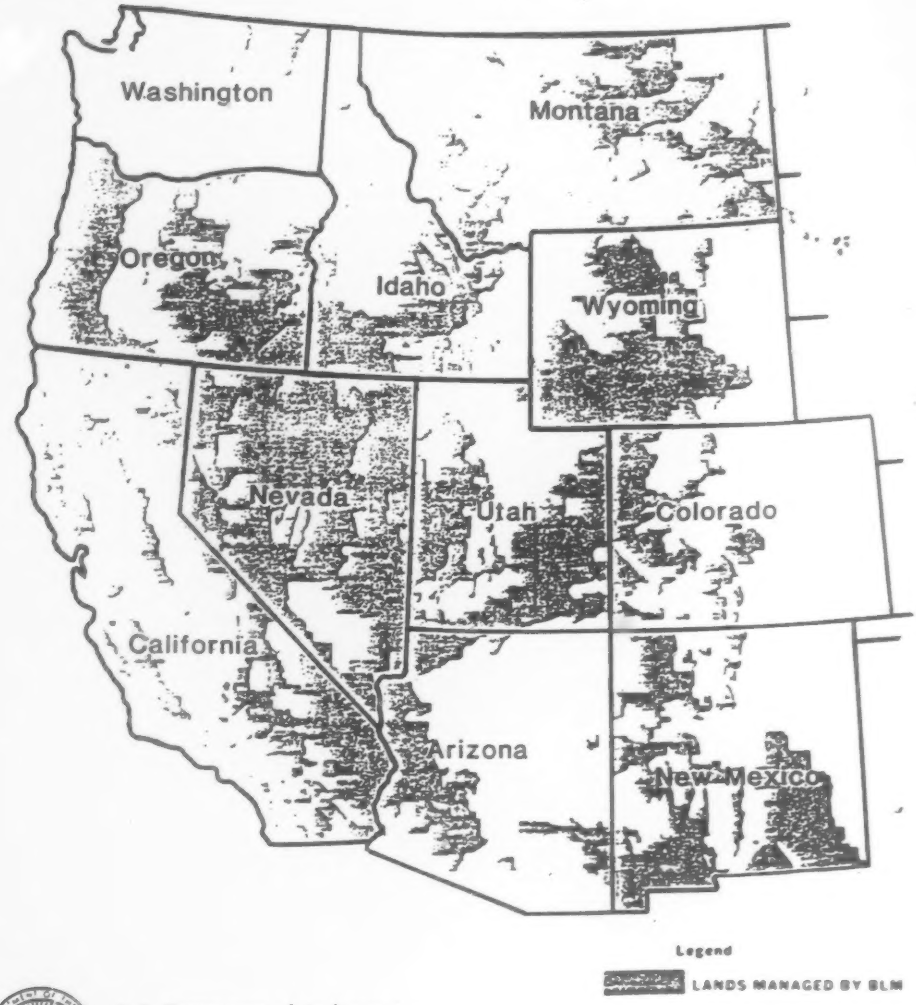
The vacant lands owned by the Federal Government, those lands not reserved for some specific purpose or some special system such as parks or forests, were known as the "public domain" lands. These public domain lands were acquired from a foreign sovereignty, as in the case of the Louisiana Purchase and the state of Alaska, rather than from a state or individual. In 1800 the first land offices were established in Ohio, followed by the General Land Office in 1812, as a means of helping convey lands to pioneers who first began to settle the western lands. Many Federal laws, such as the Homesteading Act of 1862 were enacted to assist this transfer of public domain lands to private ownership.

Not until after the Taylor Grazing Act was passed in 1934 did these public lands have a managing agency. It had not been even considered that these lands might be held permanently by the Federal Government. The Taylor Grazing Act of 1934 was passed to remedy the deteriorating condition of the public lands and to authorize permitted grazing on the public lands. In 1936, the U.S. Grazing Service was established to implement this Act.

In 1946, through executive action, the General Land Office and the U.S. Grazing Service were merged to form the Bureau of Land Management (BLM). The BLM is responsible for multiple use management of lands and resources on 272 million acres of public lands, including the unreserved public domain lands and some lands acquired by the Federal Government from a State or individual. BLM lands are located primarily in the western states, including 90 million acres in Alaska (see Figure 3). BLM is also responsible for administering mineral leasing and minerals operations of the entire Federal mineral estate that underlies other surface ownerships. (See chapter in this report on minerals policy.)

PUBLIC LANDS IN THE WESTERN STATES

FIGURE 3


Washington
Montana
Oregon
Idaho
Wyoming
Nevada
Utah
Colorado
California
Arizona
New Mexico
Legend
LANDS MANAGED BY BLM

U.S. Department of the Interior
Bureau of Land Management

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Although the Taylor Grazing Act focused on grazing management, it also expressly recognized that the public lands would be managed "pending its [the public lands] final disposal," thereby continuing the assumption that these public lands would at some time be transferred to private or State ownership, and that the Federal Government was only serving as custodian until that time. The practical application and general attitude toward the public lands, however, moved increasingly toward their retention by the Federal Government.

A comprehensive policy for BLM and the management for the public lands was an important concern for many years. The Public Land Law Review Commission (PLLRC) was established by the Congress in 1964 to review the laws and policies governing the management of all the Federal lands and resources. Some interim guidelines were established by the Congress to help administer the public lands until the PLLRC report was transmitted to Congress. The Classification and Multiple Use Act (P.L. 88-607, 78 Stat. 986), a temporary authority, required that BLM administer the public lands according to principles of sustained yield and multiple use, fashioned after the Multiple Use-Sustained Yield Act passed by the Congress in 1960 to govern the Forest Service. In addition, BLM was to undertake a systematic classification of lands for retention or disposal.

Many of the recommendations of the PLLRC pertained to revamping the myriad of laws governing public lands and giving BLM an organic act to solidify its purpose and management authorities over the public lands. Numerous bills were introduced to implement in various ways the recommendations of the PLLRC; several measures were designed to establish a general and comprehensive public lands policy. The Senate Interior and Insular Affairs Committee played the key act, with chairman Henry Jackson being the primary sponsor and supporter of such legislation. Chairman Jackson introduced the Public Domain Lands Organic Act of 1971 (S. 921) in the 92nd Congress. Hearings were held on this and other measures; debate continued into the 93rd Congress, when the Senate passed S. 424, another proposed BLM organic act, although a bill did not emerge from the House Committee. The long debates finally ended in the 94th Congress with the passage of the Federal Lands Policy and Management Act of 1976 (FLPMA), which was shepherded through the Senate and the conference committee by Chairman Jackson.

MANAGEMENT

In addition to defining the public lands policy as one of retention in Federal ownership, FLPMA consolidated many previous laws relating to public lands (such as those relating to rights-of-ways), repealed those laws that were no longer relevant (such as those relating to homesteading), and outlined major management authorities for public lands and resources. Certain other laws, however, also are relevant to public lands management.

FOREST LANDS

Although many of the BLM lands are most suited for grazing livestock, some of the most productive Federal timberlands are managed by BLM. In 1916, the Oregon and California Railroad (O&C) and Coos Bay Wagon Road grant lands were reconveyed to the Federal Government, with final disposition and management determined in the O&C Act of 1937. This law authorized these lands to be a permanent source of timber, and to be managed and harvested according to principles of sustained yield.

PAYMENTS IN LIEU OF TAXES ACT (PILT)

The PLLRC also recommended that if the public lands were to be retained in Federal ownership then it was the responsibility of the Federal Government to compensate State and local governments for the tax immunity of Federal lands. Numerous bills were considered by the Subcommittee on the Environment and Land Resources, and the Committee reported H.R. 9719 on September 8, 1976, which was then enacted on October 20, 1976 (P.L. 94-565, 90 Stat. 2662).

BLM administers the PILT program, although the Federal lands considered in the calculations of the funds that go to the local governments do not just include BLM lands, but also certain other Federal lands, such as those in the National Park System and the National Forest System.

WILD FREE-ROAMING HORSES AND BURROS

Concern over the wild horses and burros that lived on the public lands began in the 1950s, at which time Congress prohibited the use of aircraft or motorized vehicles to hunt these animals. This issue regained national prominence in the late 1960s when pressure was exerted to protect these animals from hunting. The first comprehensive measure to provide for protection of wild horses and burros was introduced in the 91st Congress, but no action was taken by the Committee. Four measures were introduced in the 92nd Congress, hearings were held on April 20, 1971, before the Public Lands Subcommittee, and S. 116 was reported out of Committee. The Senate bill was enacted on December 15, 1971, after modifications from the House bill and conference committee.

Concerns over wild horses and burros continued to be raised; FLPMA made amendments to the Wild Horses and Burros Act (P.L. 92-195, 85 Stat. 649), as did the next major piece of legislation.

PUBLIC RANGELANDS IMPROVEMENT ACT (PRIA)

Administration of range lands and livestock grazing permits were a continuing topic of oversight for the Committee since passage of the Taylor Grazing Act. One of the perennial sources of contention has been, and continues to be, grazing fees. As the predecessor to PRIA, the Committee passed in 1976 (S. 2555, 94th Congress) a National Rangelands Policy Act, which did not emerge from the House. In the 95th Congress, PRIA was first considered by the House before it was passed by the Senate and enacted on October 5, 1978.

In addition to establishing a long-term program to improve the condition of public rangelands, PRIA established a grazing fee to be used until 1985 which incorporated the cost of production and forage values into the calculation of the fee. During the 98th Congress, the Committee, in conjunction with the House, considered making the formula permanent in an "omnibus rangelands bill," but no action was taken and the fee was continued by executive action.

WATER RESOURCES DEVELOPMENT

The Committee on Energy and Natural Resources has a long history of innovative policies to develop the water resources of the United States, especially in the arid West. The Committee helped create and presently oversees the U.S. Geological Survey, a range of Federal reclamation programs, the Bonneville Power Administration, Alaska Power Administration, Southeastern Power Administration, Southwestern Power Administration, and the Western Area Power Administration.

ESTABLISHMENT OF THE U.S. GEOLOGICAL SURVEY

Shortly after the Nation's centennial year, the Forty-Sixth Congress passed the Act of March 3, 1879 (20 Stat. 394), establishing the Office of the Geological Survey as part of the Department of the Interior. In taking this action, the legislature consolidated several Federal surveys of Western public lands and initiated a strong Federal role in developing the Western States. The new office, recommended in a study requested by Congress of the National Academy of Sciences, was approved as part of appropriations legislation for 1880. The new Geological Survey at once began to expand on previous arid lands investigations begun in the Interior Department by Major John Wesley Powell, whose frontier expeditions led to the opening up of the Great Basin region of what is now Utah and Nevada. As well, the Survey undertook investigations previously managed by other Departments, including the "geographical surveys west of the one hundredth meridian" by the Army Engineer Corps of the War Department. This transition to geographically specialized regions beyond the navigable rivers consequently ensured the more complete and efficient development of the West's natural resources.

The Act creating the unified Survey specifically authorized analyses of "the supply of water for irrigation" in the western lands. Senior departmental officials of the Land Office and Geological Survey were commissioned to report to Congress within a year on codifying existing laws and disposing of public domain lands "to actual settlers." The new administrative charge specified by Congress required:

> First, a codification of the present laws relating to the survey and disposition of the public domain; second, a system and standard of classification of public lands, as arable, irrigable, timber, pasturage, swamp, coal, mineral lands, and such other classes as may be deemed proper,

> having due regard to humidity of climate, supply of water for irrigation, and other physical characteristics; third, a system of land-parcelling surveys adapted to the economic uses of the several classes of lands; and, fourth, such recommendations as they may deem wise in relation to the best method of disposing of the public lands of the western portion of the United States to actual settlers.

Modern scholars have credited Congress' creation of the Geological Survey and the office's subsequent role in the development of Western water development as a principal source of our contemporary concepts of conservation and planned and efficient land use. Further, modern multiple-purpose river basin development arose directly from the experiences and ideas of the Geological Survey's corps of hydrographers.

The work of the Geological Survey was expanded to meet the needs of the developing nation, and several water and irrigation functions along with mineral and grazing programs later became separate Bureaus of the Interior Department.

In 1888, Congress, with the passage of the Act of October 2, 1888 (25 Stat. 526), authorized the Geological Survey to undertake a study of arid regions to determine where irrigation was necessary for agriculture, to investigate water storage and stream capacities, and to determine the costs of reservoir construction. The Survey was also asked to designate all lands that would be useful for reservoir sites, canals, and other irrigation vehicles. This action marked the beginning of Federal land reclamation programs.

Known as the Powell Irrigation Survey (after John Wesley Powell, who became the Geological Survey's director), within a year this reclamation effort had designated 127 reservoir sites with an area exceeding 2,500 square miles, and 30 million acres of irrigable land in 5 separate river basins. A 1975 Committee-prepared history of the Geological Survey called the initiation of the Survey's water-resource investigations "of inestimable value . . . because of the stream measurements that were made and the topographic maps that resulted."

In the following years, the work of the Geological Survey was of such value that other major land use, conservation and irrigation programs were developed as the result of its findings. For example, the Bureau of Reclamation was an outgrowth of the irrigation surveys of the 1890's. The Bureau of Mines was organized in 1910 in response to the need, identified by Geological Survey workers, for mine-research and mine-safety efforts.

More recent activities of the Geological Survey include those authorized under the 1984 amendments to the Water Resources Research Act (P.L. 98-242, 98 Stat. 97). This program of Federal water resources research emphasizes Federal assistance to and coordination of State water research institutes.

CREATION OF THE FEDERAL RECLAMATION PROGRAM

With passage of the Reclamation Act of 1902 (32 Stat. 388), the Congress created a direct Federal role in reclaiming the arid lands of 17 Western States using irrigated agriculture to attract new settlers. This Act authorized the Secretary of the Interior to examine and survey, locate, and construct irrigation works for storage, diversion, and development of water.

Public lands, which normally might have been claimed by miners or for other legitimate development purposes, were prohibited from being settled—except as provided under the homestead laws—to permit the development of these projects. This program was carried out by the newly-designated Reclamation Service within the Geological Survey and built on the earlier work of water resources investigations carried out by the Survey under the 1894 Carey Act (28 Stat. 422).

Following limited sales of arid lands under the 1877 Desert Land Act (19 Stat. 377) and related statutes, the Carey Act authorized up to one-million Federal acres of desert lands to each Western State that would assure the development of irrigation systems on the lands settled. However, prior to the 1902 Reclamation Act, it is claimed that less than 8,000 acres had been patented under the Carey Act. The Carey Act alone was ineffective in developing the irrigation that was needed to attract settlers to the arid southwest. Moreover, a scandal in 1890 caused by land speculation activities resulted in a congressional decision to halve the size of the tracts that settlers would receive, from 640 acres to 320 acres, thus reducing the attractiveness of the program.

The eventual result of passage of the 1902 Reclamation Act was the development of a highly innovative and successful water reclamation program. Today, it provides water, irrigation and flood control services to factories, farms, cities and suburbs in the Western States and has been responsible, in part, for the economic boom in the Southwestern sun belt States in recent years.

The Act stands as the culmination of 19th Century efforts to adapt national public land policies to western conditions, sanctioning the doctrine of beneficial use, affirming State control over water appropriations, and assuring streamflow through the public domain, while demonstrating Congress' resolve to embark on a progressive public works program designed to create new family farms.

In recent years, the Committee has routinely participated in efforts to reform the Reclamation Act. Most recently, these efforts centered on the question of why the Bureau of Reclamation has allowed some individuals and corporations to receive subsidized water from projects on more than 160 acres. The Committee held hearings in 1977, 1978 and 1981 and consequently reported legislation that was enacted as the Reclamation Reform Act of 1982 (P.L. 97-293, 98 Stat. 1261). This Act redefined acreage limitations for beneficiaries of Bureau of Reclamation projects.

CREATION OF THE BONNEVILLE POWER ADMINISTRATION

Based on the examples set by Federal development of the great hydroelectric dams at Muscle Shoals and other sites in the Tennessee River Valley, the Bonneville Project Act of 1937 (P.L. 75-329, 50 Stat. 720) also incorporated coordinated multipurpose river basin planning initiatives from the previous decade, and launched the Bonneville Power Administration based on giant dams at Bonneville and Grand Coulee on the Columbia River in the Pacific Northwest.

Construction on these dams was begun in the first years of the Roosevelt Administration as Public Works Administration projects created under the 1933 National Industry Recovery Act (P.L. 73-67, 48 Stat. 195). Like TVA, they helped to revitalize the economic life of vast areas of the northwestern United States. With its completion in 1941, Grand Coulee became the centerpiece of the world's largest hydroelectric power system.

The Bonneville Project Act created a bureau within the Interior Department to build and operate power transmission facilities and market the electric energy produced. The issue was highly controversial. It was argued at the time that Federal control could not provide equitable distribution to rural consumers of the region and, moreover, that environmental damage to the Columbia River and its watershed areas would likely be severe. Congress subsequently wrote into the legislation a system of checks and balances and shared responsibilities between State, regional and Federal administrators that has made the Bonneville power system a model for similar cooperative projects.

By 1977, four power marketing administrations had been created by the Bureau of Reclamation, Department of the Interior, to market the power resulting from the expansion of Federal multiple-purpose water projects, except those under the jurisdiction of the Tennessee Valley Authority.

The Department of Energy Organization Act of 1977 created a fifth power marketing administration and transferred all five power marketing administrations—Alaska, Bonneville, Southeastern, Southwestern, and Western Area—to DOE while preserving them as separate entities.

OTHER RESOURCES, OTHER THEMES

The Committee has involved itself in many legislative areas which do not fit readily into neat resource categories. These complex pieces of legislation have often been handled by the full Committee, rather than its subcommittees. One example includes the myriad issues which have surrounded the 49th State, Alaska. Other issues affect more than one land classification, including areas not normally under the Committee's jurisdiction. Three such cross-cutting issues are the National Wilderness System, the National Trails System, and the Wild and Scenic Rivers System.

SPECIAL SYSTEMS ON FEDERAL LANDS

There are presently three special management systems that include lands from more than one Federal land management agency: the National Wilderness Preservation System, the National Wild and Scenic Rivers System, and the National Trails System. These systems were created by Congress to protect special features or characteristics which occur on lands managed by the various agencies. Rather than establish new agencies for these systems, Congress chose to have the existing agencies administer the lands within guidelines identified by Congress. In general, Congress reserved the right to define the extent of the systems, although State-designated rivers and streams or recreational trails can, under certain circumstances, be added to the appropriate system without congressional action. The Committee was active in the creation of each of these laws, and remains active in their oversight today.

THE NATIONAL WILDERNESS PRESERVATION SYSTEM

While the Forest Service had administered designated wilderness areas in National Forests as early as 1924, the National Wilderness Preservation System was established by the Wilderness Act in 1964. The Senate Committee on Interior and Insular Affairs, then chaired for the first time by Senator Henry M. Jackson, was intensively involved in the creation of this legislation. On April 3, 1963, the Committee reported S. 4 (S. Rpt. 88–109). The bill was passed on the floor of the Senate on April 9, 1963. After House passage of a companion measure, the Senate passed the conference report on August 20, 1964 (Conf. Rpt. 88–1829).

Coming as close to poetry as the U.S. Code ever does, the Act defined wilderness as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." Moreover, it was also defined as Federal land which "generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable," where solitude and primitive recreation are the dominant values. Wilderness areas eligible for inclusion in the system were generally limited to areas of more than 5,000 acres or to areas which could be managed to maintain their pristine character. The 1964 Act designated 9.1 million acres of National Forest System lands as wilderness. Additional areas are designated by Acts of Congress. The Act also required the Secretaries of Agriculture and of the Interior to evaluate the wilderness potential in other Forest Service lands and in National Park System lands and National Wildlife Refuge lands. The deadline for their report was 10 years after enactment.

EXPANSION OF THE SYSTEM

Under the Committee's leadership, Congress began expanding the System in 1968, establishing four new wilderness areas in the National Forest System and the first wilderness area in the National Wildlife Refuge System; the first National Park System wilderness areas were established two years later, while the initial BLM wilderness designations occurred in 1978. The most significant expansion of the system was included in the Alaska National Interest Lands Conservation Act (ANILCA) enacted in 1980, which established 35 new wilderness areas with more than 56 million acres in Alaska. This enactment almost tripled the 21.5 million acres in the National Wilderness Preservation System.

RARE II IN THE COURTS

In the 1970s, the Forest Service's study, the Roadless Area Review and Evaluation (RARE), was meeting widespread criticism. The controversy resulted from the Service's exclusion of eastern National Forests, National Grasslands, and all areas less than 5,000 acres. The study was abandoned in 1972 because of a lawsuit claiming 44 million acres were improperly excluded from the analysis. A second study (RARE II) was begun in 1977, and wilderness (and non-wilderness) recommendations were issued in January 1979. In July 1979, California sued the Forest Service. The State claimed that the analysis in RARE II did not meet NEPA requirements for 46 areas in the State that were recommended for non-wilderness uses. A Federal District judge upheld that view in 1980. An appellate court basically upheld the lower court's ruling. The stage was set for the next major wilderness controversy: the adequacy of the RARE II study, and the management of roadless lands that were not designated as wilderness by Congress.

The debate arose because conservationists, knowing the strength of their legal case under NEPA against RARE II, wanted to preserve their option to stop development in roadless areas in other States through the courts. Timber managers, on the other hand, did not want all roadless area management options endlessly tied up in court. Conservationists agreed not to sue in other States in return for expeditious congressional consideration of statewide wilderness bills; during that consideration, roadless areas would be protected from development.

RELEASE LANGUAGE

A key component of congressional debate was "release" language. Release language is a provision included in the statewide wilderness bills that designate wilderness areas in the National Forest System; it provides congressional direction on the timing and extent of future wilderness considerations by the Forest Service and on the interim management of roadless areas in the National Forest System. Disagreements over how such language should be formulated had created a bottleneck for passage of much wilderness legislation. Key players in the debate over release included James A. McClure, Chairman of the Committee, Senators Mark Hatfield, Dan Evans, and other Senators, plus such House Members as John Seiberling and Morris Udall. Chairman McClure argued forcefully that the version developed in 1980 was ambiguous in some aspects, and that the timber industry needed more certainty in its planning.

A compromise over "release language" in May 1984 broke a legislative stalemate, leading to the passage of 21 wilderness bills designating 8.6 million acres of predominently National Forest wilderness in 21 States; except for the 1980 Alaska designations, the 98th Congress added more acreage to the wilderness system than any other Congress since the system was created in 1964. Today, the National Wilderness Preservation System contains more than 88 million acres in 44 States.

MINERAL DEVELOPMENT

The Wilderness Act provided one temporary exception to the management restrictions: mineral exploration and leasing was allowed in wilderness areas for 20 years after the law was enacted, until December 31, 1983. No leasing or exploration permits were considered until James Watt became Secretary of the Interior in 1981. After intense debate, Congress enacted a moratorium on wilderness oil and gas leasing in the Fiscal Year 1983 and Fiscal Year 1984 Interior Appropriations Acts. In addition to mineral exploration and leasing, Congress occasionally includes exceptions to the management limitations for specific wilderness areas; these exceptions are generally to allow the continuance of existing uses, such as motorboats on lakes or the use of airstrips.

THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

The National Wild and Scenic Rivers System was established by the Wild and Scenic Rivers Act in 1968 (P.L. 90-542, 82 Stat. 906). The Committee was a major player in the evolution of this legislation. The Committee, under the leadership of Chairman Jackson, reported S. 119 on August 4, 1967 (S. Rpt. 90-491). The Senate passed the legislation on August 8, 1967, and the conference report on September 26, 1968 (Conf. Rpt. 90-1917). The measure was signed into law on October 2, 1968.

The Act established a policy of preserving selected free-flowing rivers for the benefit and enjoyment of present and future Americans. Three classes of rivers were established: (1) wild rivers—those free from impoundments (dams, diversions, etc.) and generally inaccessible except by trail, where the watersheds are essentially primitive; (2) scenic rivers—those free from impoundments in generally undeveloped areas, but accessible in places by roads; and (3) recreational rivers—those readily accessible by road, with some shoreline development and possibly some impoundment or diversion in the past. Rivers can be added to the system either by an Act of Congress or, if a State designates and manages the river, with the approval of the Secretary of the Interior.

Administration is intended to protect and enhance the values which led to the designation, but Congress directed that other land uses not be limited unless they "substantially interfere with public use and enjoyment of these values" (Section 10(a)). Primary emphasis for management is directed toward protecting aesthetic, scenic historic, archaeologic, and scientific features of the area, but timber harvesting, road construction, hunting and fishing, and mining and mineral leasing may be permitted in some instances, as long as the activities are consistent with the values of the area being protected and with other State and Federal laws.

The System began with 789 miles in eight rivers in 1968. Congress began expanding the system in 1972, and made substantial additions in 1976 and in 1978 (413 miles in three rivers and 688 miles in eight rivers, respectively). As with the wilderness system, the National Wild and Scenic Rivers System was more than doubled by Alaska designations in ANILCA. The first additions under the Reagan Administration were enacted into law in 1984, with five rivers including more than 300 miles being added to the system.

In addition to the 71 rivers with 7,369 miles already in the National Wild and Scenic Rivers System, Congress has identified numerous rivers as potential additions to the system. A total of 95 rivers have been identified for study, and to date all or part of 22 of these rivers have subsequently been added to the system. In the 100th Congress 50 new rivers were added, including legislation for the Omnibus Oregon Wild and Scenic Rivers Act of 1988 which was enacted (P.L. 100–557). The Secretaries of the Interior and of Agriculture are required to report on the suitability of these rivers for wild and scenic designation to the President, who in turn submits his recommendations to Congress. Thus, it seems likely that future Congresses will continue to expand the National Wild and Scenic Rivers System.

THE NATIONAL TRAILS SYSTEM

In the 1960s concern arose that such nationally famous trails as the Appalachian Trail deserved Federal recognition and protection. The Committee was active in addressing this issue. The Committee, under Chairman Jackson, passed S. 827, the National Trails System Act, on June 13, 1968 (S. Rept. 90–1233), and the Senate passed the bill on July 1, 1968. The conference committee reported an amended S. 827 on September 12 (Conf. Rept. 90–1891) and the Senate passed the conference agreement on September 19, 1968. The Act was signed by President Lyndon Johnson on October 2, 1968 (P.L. 90–543, 82 Stat. 919).

The Act described the need to provide additional outdoor recreaton opportunities, and established four classes of trails for the system: (1) recreation trails—trails in or reasonably accessible to urban areas, on Federal, State, or private lands, designated by the Secretary of the Interior with the consent of the States or the private landowner; (2) scenic trails—trials designated by an Act of Congress that provide outdoor recreation and the conservation and enjoyment of significant scenic, historic, natural, or cultural qualities; (3) historic trails—trails designated by an Act of Congress that follow travel routes of national historic significance; and (4) connecting or side trails—trails to provide access to or among the other trails, designated on Federal lands by the appropriate Secretary and on other public lands with the consent of the relevant governing body.

The System began with two scenic trails named in the 1968 Act: the Appalachian Scenic Trail, stretching 2,000 miles from Mount Katahdin, Maine, to Springer Mountain, Georgia; and the Pacific Crest Scenic Trail, covering 2,600 miles from Canada to Mexico along the mountains of Washington, Oregon, and California. The system was expanded a decade later, when the National Parks and Recreation Act of 1978 designated four historic trails with more than 9,000 miles and a 3,100 mile trail along the Continental Divide. Subsequent enactments have expanded the system still further. As with the wilderness and wild and scenic rivers systems, Congress has legislatively designated potential additions to the National Trails System for study.

Each national trail is administered b either the Secretary of the Interior or the Secretary of Agriculture. Recreation facilities are generally acceptable, and other uses, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the appropriate Secretary. The use of motorized vehicles is generally prohibited on the National Scenic Trails System, except under certain specified circumstances. The Secretaries are permitted to acquire lands or interest in lands for the National Trails

System by written cooperative agreements, through donations, by purchase (with donated funds or appropriated funds), by exchange, and as a last resort, and within limited authority, by condemnation.

CHAPTER THREE

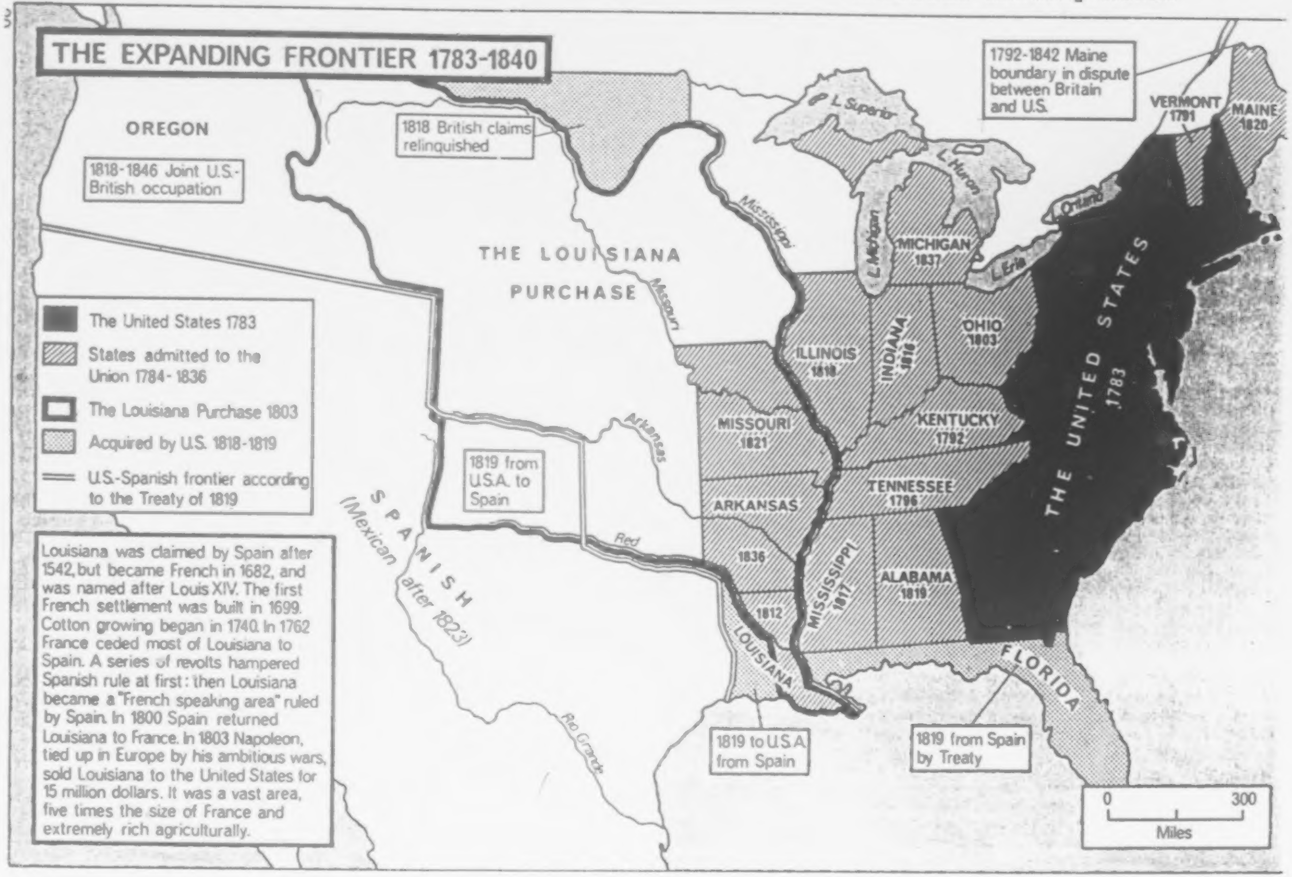
TERRITORIES, INSULAR POSSESSIONS, AND STATEHOOD

From the beginning of our history, U.S. territorial policy has evolved to accommodate changing national objectives. Initially, this policy encompassed broad decisions involving the country's rapidly expanding frontiers. The first United States territories date back to the end of the American Revolution. After the War ended in 1783, the thirteen independent States bound themselves loosely under the Articles of Confederation. The States which had land claims to areas not included within their boundaries ceded them to the new central government.

Statehood was recognized as the ultimate objective for the contiguous territories, and most traditional policy was promulgated with this end in mind. Under the Articles of Confederation, the foundation for incorporating new lands into the union of States was laid, and provided the basis by which most future States were admitted into the Union. The Congress of the Confederation passed the Northwest Ordinance of 1787 to organize and administer new territories (the current States of Ohio, Indiana, Illinois, Michigan, and Wisconsin). The Ordinance provided that the Northwest Territory might be divided into not less than three nor more than five States and that no new State having fewer than 60,000 inhabitants should be admitted into the Union. The Ordinance was reaffirmed by Congress in 1789 following the ratification of the U.S. Constitution.

Although the Northwest Ordinance created the basis for a cohesive territorial system, it did not prescribe detailed admission procedures. The Constitution empowers Congress to admit new States. While no specific criteria are mandated, the Congress usually applied three criteria in deciding whether a territory was ready for statehood. First, the inhabitants of the proposed new State were in sympathy with the principles of democracy and the American form of government. Second, the majority of the electorate desired statehood. And third, the proposed new State had sufficient population and resources to support State government and to provide its share of Federal revenues.

Likewise, the U.S. Constitution, in Article IV, section 3, states, "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. . . ." This provision has been interpreted by the Courts to give the Congress plenary power to administer the territories and decide questions of territorial status. This authority took on a new meaning when the United States acquired offshore territories at the beginning of the twentieth century. U.S. territorial policy changed. The newly acquired insular areas (Puerto Rico, the Philippines and Guam among them) did not fit the traditional mold of the States. They were valued primarily for their strategic importance. In a series of decisions by the U.S. Supreme Court in the early 1900s, these territories, except Hawaii, were classified as unincorporated, a term that distinguished them from the territories that had become, and were to become, States of the Union.



THE EXPANDING FRONTIER 1783-1840

OREGON
1818-1846 Joint U.S.-British occupation
1818 British claims relinquished
THE LOUISIANA PURCHASE
1819 from U.S.A. to Spain
SPANISH (Mexican after 1823)
1792-1842 Maine boundary in dispute between Britain and U.S.
VERMONT 1791
MAINE 1820
L. Superior
L. Huron
L. Michigan
L. Erie
L. Ontario
MICHIGAN 1837
ILLINOIS 1818
INDIANA 1816
OHIO 1803
KENTUCKY 1792
TENNESSEE 1796
MISSOURI 1821
ARKANSAS
1836
MISSISSIPPI 1817
ALABAMA 1819
1812
LOUISIANA
FLORIDA
THE UNITED STATES 1783
Mississippi
Missouri
Arkansas
Red
Rio Grande
1819 to U.S.A. from Spain
1819 from Spain by Treaty
0
300
Miles
■ The United States 1783
▨ States admitted to the Union 1784-1836
□ The Louisiana Purchase 1803
▨ Acquired by U.S. 1818-1819
═ U.S.-Spanish frontier according to the Treaty of 1819

Louisiana was claimed by Spain after 1542, but became French in 1682, and was named after Louis XIV. The first French settlement was built in 1699. Cotton growing began in 1740. In 1762 France ceded most of Louisiana to Spain. A series of revolts hampered Spanish rule at first: then Louisiana became a "French speaking area" ruled by Spain. In 1800 Spain returned Louisiana to France. In 1803 Napoleon, tied up in Europe by his ambitious wars, sold Louisiana to the United States for 15 million dollars. It was a vast area, five times the size of France and extremely rich agriculturally.

STATEHOOD AND WESTERN EXPANSION

Decisions regarding statehood were among the most important responsibilities of the Senate's Committee on Territories and its successors—first the Committee on Public Lands and then the Committee on Interior and Insular Affairs, before becoming the Committee on Energy and Natural Resources. The actual process of admitting new States into the Union has not been uniform. In twenty instances, new States were admitted after they had complied with a series of prerequisites prescribed by Congress. Once these requirements had been met, Congress pased an "enabling act," by which a territory was authorized to draft a "State" constitution and set up electoral machinery. The final step was the passage of an admission act, once Congress was satisfied that the provisions of the enabling act had been met. In other cases, however, States were admitted without adherence to such procedures.

The original thirteen States, of course, were never territories; and seventeen other geographical units entered the Union without the benefit of enabling acts. Eleven of these were organized and incorporated territories: Tennessee, Arkansas, Michigan, Florida, Iowa, Oregon, Kansas, Idaho, Wyoming, Alaska, and Hawaii. Four other areas (not incorporated territories) had been parts of other States, and were admitted as separate entities by simple acts of admission; these were Kentucky (fashioned from territory formerly within the jurisdiction of Virginia), Maine (from Massachusetts), Vermont (from New York), and West Virginia (from Virginia). Another political entity—Texas—was an independent republic before its annexation by the United States; its "enabling act" was incorporated in the joint resolution of annexation. Still another geographical unit, California, was an unorganized area subject to the hegemony of a United States Army general who served as *de facto* governor.

In seven of these areas—Tennessee, Michigan, Iowa, California, Oregon, Kansas, and Alaska—"Senators" (in five of the areas) and "Representatives" were elected to Congress before such areas were even admitted to statehood. Five territories—Arkansas, Florida, Idaho, Wyoming, and Hawaii—drafted their constitutions without prior congressional authority, but did not elect Senators and Representatives until after admission acts had been approved.

The issue of statehood continued to arise, of course, because of the inexorable process of expansion westward. Between 1840 and 1860, the population of the Nation nearly doubled. With the annexation of Texas in 1845 and the treaty with Great Britain to settle the dispute over the far northwest, the United States flag flew over the southwest, California, and the Oregon Territory by the end of 1853. The "manifest destiny" of the United States was fulfilled; the Nation stretched from ocean to ocean. With the flag came settlers, anxious to take advantage of the western lands. The extension of government to the receding frontier through the organization of territories, and the preparation of the territories for the admission to statehood became responsibilities of the Senate Committee on Territories.

In a very short time, the Committee assumed extraordinary importance. Three territories whose delegates had urged the Committee's creation were all admitted as States within four years—Florida (1845), Iowa (1846) and Wisconsin (1848). Texas was annexed in 1845 and bypassed the territorial stages of government. The Oregon Treaty established the boundary between the United States and British America along the 49th parallel, ending negotiations that had continued for fifty years. From this newly acquired territory the States of Oregon and Washington were formed. The Treaty of Guadalupe-Hidalgo of 1848 terminated the war with Mexico, which had begun in 1846 with a dispute over the border between Texas and Mexico, and which had ended with the American occupation of Mexico City. In return for $15 million and repayment of $3 million in its debts, Mexico agreed to cede to the United States 600,000 square miles of territory, which included all of the present-day States of California, Arizona, New Mexico, Nevada, and Utah, and part of Colorado. Mexico also agreed to recognize Texas' border at the Rio Grande River. The Gadsden Purchase, which the Senate approved in 1854, completed the process of American expansion to the southwest.

These developments, and especially the Treaty of Guadalupe-Hidalgo, opened a whole new chapter in the history of the settlement of the American frontier. They also confronted Congress and the Nation with the unresolved question of whether the newly-acquired territory would be free or would be open to slavery. Debating this question would consume another decade of debate that concluded with the coming of the Civil War.

The Slavery Conflict and Its Aftermath

With the westward expansion of the United States during the first half of the 19th century, the question of slavery assumed increasing importance. Decisions concerning the acquisition of territories and the admission of States inevitably involved the question of whether slavery would be permitted within their borders. The extension of slavery became one of the focal points of the bitter sectional conflict that would end only with the Civil War. This linkage between national expansion and the slavery question made the Senate Committee on Territories one of the most powerful committees in Congress. The legislation the Committee considered can truly be said to have changed the course of our Nation's history.

The controversial Missouri Compromise of 1820 left the United States almost equally divided: 12 free States and 12 slave States, plus the free territory of Michigan and the slave territories of Florida and Arkansas. An amendment, proposed by Senator Thomas, barred slavery north of the 36th parallel in the Louisiana Purchase Territory, except for Missouri. (By this provision Texas was admitted to the Union 25 years later as a slave State and Oregon became a free territory in 1848). Thirty years later, Senator Henry Clay (Whig, KY) won acclaim as the "Great Pacificator" for the role he played in devising the Compromise of 1850 that gave the South a temporary middle ground between secession and submission. Clay came out of retirement in a desperate attempt to save the Nation from the disaster of disunion. In one of the greatest speeches of his career he introduced a series of resolutions that became the basis of the Compromise of 1850.

Clay died believing that the sectional struggle over slavery had been settled. Far from being resolved, however, the conflict was soon rekindled in Congress by the Kansas-Nebraska Act of 1854. Inhabitants of the Nebraska country west of Missouri and Iowa found that pro-slavery advocates had defeated an attempt to make it a territory which, under the Missouri Compromise, would have been free. In December 1853, Senator Stephen A. Douglas (D., IL) reacted by introducing a bill to create the Nebraska Territory. His proposal, which included a number of controversial provisions that intensified ill feelings between the slave and the free States, provided for the repeal of the Missouri Compromise and the creation of Kansas and Nebraska as new territories, the inhabitants of which were to decide for themselves the question of slavery or freedom. The bill was enacted by Congress in 1854, and came to be known as the Kansas-Nebraska Act.

In 1858, the Senate voted to admit Kansas into the Union under the terms of the Lecompton Constitution which had been drawn up by pro-slavery forces meeting in Lecompton, Kansas. At issue was the extension of slavery into Kansas, which this constitution permitted. President Buchanan, anxious to placate the South, recommended that Kansas be admitted under the Lecompton constitution. Enraged by what he regarded as Buchanan's betrayal, Senator Douglas led a revolt of northern Democrats who opposed the extension of slavery. During the Senate debate over Kansas, Douglas spoke for three hours, but to no avail. The Senate upheld the admission of Kansas under the Lecompton constitution by a vote of 33-22. But the House refused to comply, so the issue of Kansas remained alive for three more years. It was not until January 1861, after the South had seceded, that Kansas finally was admitted, without slavery, into the Union.

THE CONTRIBUTIONS OF CHAIRMAN STEPHEN DOUGLAS

In this debate and in many others, the key importance of the Committee on Territories was buttressed and advanced by its able chairman, Stephen Douglas, who served from 1847 to 1858. The Senator from Illinois brought with him a dedicated commitment to western territorial expansion which, to him, was "the heart and soul of the nation and the continent." One of his greatest achievements was the doctrine of popular sovereignty. Douglas did not deny the right of Congress to make laws for the territories, but he did insist that the right of self-government had to be conceded to the people of the territories. Thanks to his efforts and commitment, the territories began to assume a status that increasingly resembled that of the States.

Senator Douglas also fought valiantly for establishing territorial governments and other institutions "necessary to give government to the people of the territories, and prepare them for admission into the Union as states." Moreover, his vision and persistence brought his Committee to pre-eminence in territorial affairs, even at the cost of involving it in conflicts with the older, more established committees of the Senate. He made a test case of the California statehood bill; his victory established that all subsequent statehood measures would be the responsibility of the Committee on Territories.

KEY DATES IN THE ADMISSION OF THE 37 STATES ADMITTED AFTER THE ORIGINAL 13 STATES

State	Date of territorial act	Date of enabling act	Date of admission act	Effective admission		Years elapsed between territorail status and statehood	Estimated population at time of admission
				Date	Order		
Alabama	Mar 3, 1817	Mar. 2, 1819	Dec. 14, 1819	Dec. 14, 1819	9	2	144,317
Alaska	Aug. 24, 1912	None	July 7, 1958	Jan. 3, 1959	36	47	211,000
Arizona	Feb. 24, 1863	June 20, 1910	Aug. 21, 1911	Feb. 14, 1912	35	49	216,639
Arkansas	Mar. 2, 1819	None	June 15, 1836	June 15, 1836	12	17	52,240
California	None	do	Sept. 9, 1850	Sept. 9, 1850	18	(2)	107,000
Colorado	Feb. 28, 1861	Mar. 3, 1875	(1)	Aug. 1, 1876	25	15	150,000
Florida	Mar. 30, 1822	None	Mar. 3, 1845	Mar. 3, 1845	14	23	54,477
Hawaii	Apr. 30, 1900	do	Mar. 18, 1959	Aug. 21, 1959	37	59	211,000
Idaho	Mar. 3, 1863	do	July 3, 1890	July 3, 1890	30	27	84,385
Illinois	Feb. 3, 1809	Apr. 18, 1818	Dec. 3, 1818	Dec. 3, 1818	8	9	34,520
Indiana	May 7, 1800	Apr. 19, 1816	Dec. 11, 1816	Dec. 11, 1816	6	16	63,897
Iowa	June 12, 1838	None	Mar. 3, 1845	Dec. 28, 1846	16	8	81,970
Kansas	May 30, 1854	do	Jan. 29, 1861	Jan 29, 1861	21	7	107,206
Kentucky	None	do	Feb. 4, 1791	June 1, 1792	2	(3)	73,677
Louisiana	Mar. 26, 1804	Feb. 20, 1811	Apr. 8, 1812	Apr. 30, 1812	5	8	76,556
Maine	None	None	Mar. 3, 1820	Mar. 15, 1820	10	(3)	298,335
Michigan	Jan. 11, 1805	do	June 15, 1836	Jan. 26, 1837	13	32	200,000
Minnesota	Mar. 3, 1849	Feb. 26, 1857	May 11, 1858	May 11, 1858	19	9	150,042
Mississippi	Apr. 7, 1798	Mar. 1, 1817	Dec. 10, 1817	Dec. 10, 1817	7	19	75,512
Missouri	June 4, 1812	Mar. 6, 1820	Mar. 2, 1821	Aug. 10, 1821	11	9	66,586
Montana	May 26, 1864	Feb. 22, 1889	(1)	Nov. 8, 1889	28	25	112,000
Nebraska	May 30 1854	Apr. 19, 1864	Feb. 9, 1867	Mar 1, 1867	24	13	60,000
Nevada	Mar. 2, 1861	Mar. 21, 1864	(1)	Oct. 31, 1864	23	3	40,000
New Mexico	Sept. 9, 1850	June 20, 1910	Aug. 21, 1911	Jan. 6, 1912	34	62	338,470
North Dakota	Mar. 2, 1861	Feb. 22, 1889	(1)	Nov. 2, 1889	26	28	460,000
Ohio	Aug. 7, 1787	Apr. 30, 1802	Aug. 7, 1953	Mar. 1, 1803	4	16	41,915
Oklahoma	May 2, 1890	June 16, 1906	(1)	Nov. 16, 1907	33	17	1,414,177
Oregon	Aug. 14, 1848	None	Feb. 14, 1859	Feb. 14, 1859	20	11	52,400
South Dakota	Mar. 2, 1861	Feb. 22, 1889	(1)	Nov. 2, 1889	27	28	(1)
Tennessee	May 26, 1790	None	June 1, 1796	June 1, 1796	3	6	77,267
Texas	None	do	Dec. 19, 1845	Dec. 29, 1845	15	(3)	250,000
Utah	Sept. 9, 1850	July 16, 1894	(1)	Jan. 4, 1896	32	46	241,000

KEY DATES IN THE ADMISSION OF THE 37 STATES ADMITTED AFTER THE ORIGINAL 13 STATES—Continued

State	Date of territorial act	Date of enabling act	Date of admission act	Effective admission		Years elapsed between territorail status and statehood	Estimated population at time of admission
				Date	Order		
Vermont	None	None	Feb. 18, 1791	Mar. 4, 1791	1	([3])	85,539
Washington	Mar. 2, 1853	Feb. 22, 1889	([1])	Nov. 11, 1889	29	36	273,000
Wisconsin	Apr. 20, 1836	Aug. 6, 1846	Mar. 3, 1847	May 29, 1848	17	12	210,000
West Virginia	None	None	Dec. 31, 1862	June 19, 1863	22	([3])	376,683
Wyoming	July 25, 1868	do	July 10, 1890	July 10, 1890	31	22	60,705

[1] Admitted through a Presidential proclamation as authorized by the enabling acts.
[2] Was an unorganized area under military rule and did not have a territorial act prior to statehood.
[3] Was never a territory but formed from an existing State.
[4] The 460,000 represents combined population for North and South Dakota.
[5] Went from independent Republic to statehood without territorial status.

Source.—U.S. General Accounting Office. Experiences of Past Territories Can Assist Puerto Rico Status Deliberations; Report to the Congress of the United States by the Comptroller General. GGD-80-26. March 7, 1980, Washington, 1980, pp. 8, 19.

TWENTIETH CENTURY TERRITORIAL POLICY

The 1898 war with Spain and its aftermath altered U.S. territorial policy; under the Treaty of Paris, the Philippines, Puerto Rico, and Guam were ceded to the United States. Not only were these islands not geographically connected to the United States (or to each other), their cultures further distinguished them from previous territorial acquisitions.

Early in 1899, Congress examined the policy implications of the Treaty of Paris. Senators debated the wisdom of acquiring territories without first defining their legal status. Supporters of the treaty argued that the United States had a sovereign right to acquire and govern territories; opponents asserted that holding territories indefinitely as colonies was contrary to democratic principles. The congressional debate also raised the issue of possible statehood for these territories, but their future status remained unresolved.

Cuba

Though Cuba was never considered to be a U.S. territory or possession, nor did the United States seek sovereignty over it, the predecessor of this Committee did exercise responsibility for its administration. By 1985 a political and economic crisis in this Spanish colony had become severe. Cuban political organizations in exile were coordinated and mobilized by the poet and propagandist, Jose Marti. In 1898, following the explosion aboard the U.S.S. Maine in Havana harbor, the U.S. declared war against Spain, helping Cuba to win its struggle for independence. Spain then gave up all claims on Cuba and signed a peace protocol in Washington, ending hostilities. Cuban independence was granted by the Treaty of Paris on December 10, 1898. However, a U.S. military government remained until 1902, and the "Platt amendment" of 1901 reserved to the United States the right to oversee Cuba's international commitments, economy, and internal affairs, and to lease a naval base at Guantanamo Bay in perpetuity.

The Philippines

Also under the Treaty of Paris, the archipelago of the Philippines was ceded to the United States. American rule lasted until 1946, when the U.S. recognzied Philippine independence. Japanese forces occupied the country during World War II. Thereafter, Presidents were elected every four years until Ferdinand Marcos declared martial law in 1972 and in 1973 proclaimed a new constitution under which he became President. In the dramatic developments of 1985 and 1986, Corazon Aquino, widow of slain opposition leader Benigno Aquino, was elected President.

The Insular Cases

After World War I, U.S. territorial policy was given new direction by the Supreme Court in a series of cases heard from 1901 through 1922. The Insular Cases, as they were called, established the doctrine of incorporation which distinguished between unincorporated territories, partially protected by the Constitution, and incorporated territories, guaranteed the full protection of the Constitution. These cases also reaffirmed Congress' plenary authority over the territories, the doctrine of incorporation permitting Congress to treat newly-acquired territories differently than contiguous ones. The lesser status accorded unincorporated territories was perceived by some to be a legal "holding pattern" which left questions of self-determination open for later decision.

Since the end of World War II, the United States has consistently advocated a policy of self-determination toward its territories and insular areas, including political, economic and social development. Implementing these broad policy objectives has been a responsibility primarily of the Department of the Interior, and all recent administrations have emphasized self-determination as a priority for the territories. Although Congress has vested the Secretary of the Interior with considerable authority and responsibility concerning territorial governments, these governments are autonomous and separate from the Department of the Interior, and they are not entities of the Federal government. Indeed, it has been U.S. policy to promote private sector involvement and economic diversification within each of the territories, leading toward greater self-government and autonomy.

ALASKAN STATEHOOD

Shortly after the Civil War, the United States purchased Alaska from Imperial Russia. Under the terms of this 1867 treaty, the U.S. paid Russia $7.2 million in gold for a territory twice the size of Texas. At an average cost of about 2 cents an acre, the Alaska purchase was an extraordinary bargain negotiated by Secretary of State William H. Seward. With a vast western territory still largely unoccupied, however, Alaska's importance was not so apparent at the time. Most Americans could not see the need to purchase Alaska, and the newspapers laughed at "Seward's folly" and "Seward's icebox." But the Secretary convinced the Senate of Alaska's valuable natural resources and strategic location for American interests in the Pacific. On April 9, 1867, the Senate ratified the treaty by a vote of 37 to 2.

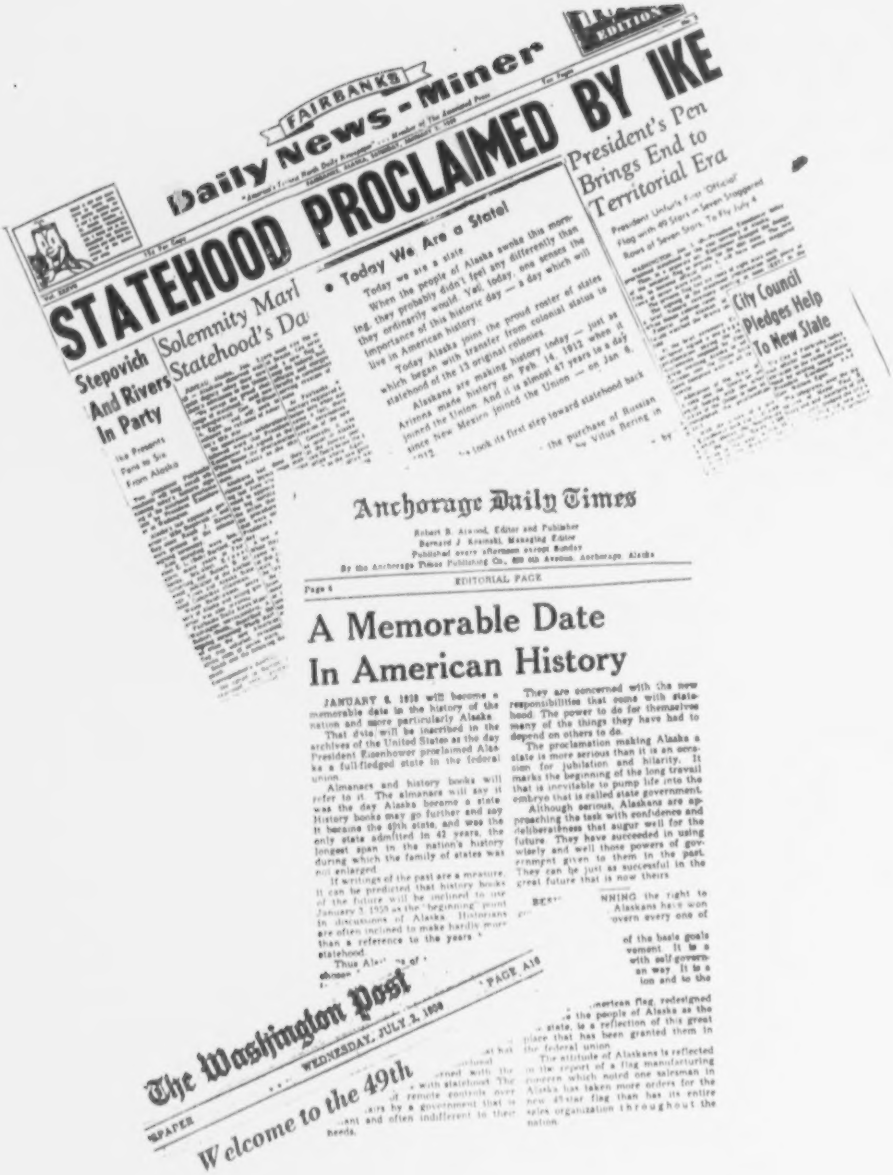
Though Seward envisioned that Alaska eventually would become a State, Congress did little to prepare the new territory for admission to the Union. Instead, Congress first established Alaska as a U.S. customs district in 1868. An organic act for Alaska declared in 1884 that the general laws of Oregon were to apply in the district of Alaska. Then in 1912, Congress passed a second organic act for Alaska, authorizing an elected legislature and an appointed governor. The act providing for a resident Commissioner for Alaska became law in 1906. In 1916, Alaska Delegate James Wickersham introduced the first bill to grant statehood to Alaska. Wickersham and his successors introduced similar bills in the House in later Congresses but with no success. Few Members of Congress thought that Alaska had a sufficient population or an adequate economic base to support a State government and related services. Some Members also were opposed to granting statehood to a territory which was not immediately adjacent to the other States.

World War II brought an increasing national concern for Alaska. The Japanese Army in 1942 occupied the Alaskan islands of Atta and Kiska in the Aleutian chain. U.S. military reinforcements were sent to Alaska, and the islands were re-taken during the summer of 1943. The Nation had been made aware of Alaska's strategic importance, so the prospects for rapid admission into the Union seemed improved. In 1947, the House held hearings on Alaska statehood, and it passed an Alaska statehood bill (H.R. 331) in 1949. The Senate Committee on Interior and Insular Affairs held hearings on the bill and reported it favorably, but it was not enacted. In 1951, the Senate Interior Committee took the initiative in Alaskan statehood legislation by reporting S. 50; when the bill finally came to the floor, more than three weeks of intermittent debate followed. By a vote of 45–44, the Senate voted to return the statehood bill to committee with instructions that the committee consider granting "commonwealth" status to Alaska. The Committee, which favored the grant of statehood, took no further action on the subject in the 82d Congress.

In succeeding Congresses, efforts were made to enact a bill that encompassed statehood for both Hawaii and Alaska, but they were unsuccessful. So Alaska residents decided to take the initiative in order to break the legislative impasse. In November 1955, delegates to a constitutional convention were elected. The draft State constitution was approved by Alaskan voters in April 1956 by a margin of more than two-to-one. In the 1956 elections, Alaskans voted for two "Senators" and a "Representative" in addition to their Delegate. "Senators" Ernest Gruening and William Egan and "Representative" Ralph Rivers went to Washington to lobby actively for Alaskan statehood.

There was a new impetus for statehood in 1957 when House and Senate bills were introduced to approve the Alaskan constitution and admit Alaska to statehood, but the House Rules committee declined to provide for floor consideration of the House bill, H.R. 7999. It was Speaker Rayburn who, at the behest of Senator Lyndon Johnson, broke the impasse by ruling that measures admitting territories to statehood were privileged under the Constitution and rules of the House, and therefore eligible for immediate consideration. On July 30, 1957, the Committee reported S. 49, and the statehood bill passed the Senate on June 30 of the following year, by a vote of 64–20. It was signed into law on July 7, 1958; President Eisenhower then signed the official proclamation making Alaska a State on January 3, 1959.

Statehood supporters rejoiced on June 30, 1958 after Senate passage of the Alaska Statehood bill by a vote of 64–20. Celebrating over a 49-star flag outside the Senate chamber are, from the left: Ernest Gruening, former Alaska governor; Sen. Frank Church (D–Idaho); Sen. Thomas Kuchel (R–Calif.); Governor Mike Stepovich; Sen. Henry Jackson (D–Wash.); Wally Hickel; Sen. Arthur Watkins (R–Utah), and Sen. Richard Neuberger (D–Ore.). President Eisenhower signed the bill on July 7, 1958, and Statehood for Alaska became official six months later, on January 3, 1959.



FAIRBANKS Daily News-Miner

EDITION

STATEHOOD PROCLAIMED BY IKE

President's Pen Brings End to Territorial Era

President Unfurls First "Official" Flag with 49 Stars in Seven Staggered Rows of Seven Stars, To Fly July 4

Solemnity Marl Statehood's Da

Stepovich And Rivers In Party

Ike Presents Pens to Six From Alaska

• Today We Are a State!

Today we are a state.

When the people of Alaska awoke this morning, they probably didn't feel any differently than they ordinarily would. Yet, today, one senses the importance of this historic day — a day which will live in American history.

Today Alaska joins the proud roster of states which began with transfer from colonial status to statehood of the 13 original colonies.

Alaskans are making history today — just as Arizona made history on Feb. 14, 1912 when it joined the Union. And it is almost 47 years to a day since New Mexico joined the Union — on Jan 6, 1912.

took its first step toward statehood back the purchase of Russian by Vitus Bering in by

City Council Pledges Help To New State

Anchorage Daily Times

Robert B. Atwood, Editor and Publisher
Bernard J. Kosinski, Managing Editor
Published every afternoon except Sunday
By the Anchorage Times Publishing Co., 820 4th Avenue, Anchorage, Alaska

Page 6 EDITORIAL PAGE

A Memorable Date In American History

JANUARY 3, 1959 will become a memorable date in the history of the nation and more particularly Alaska.

That date will be inscribed in the archives of the United States as the day President Eisenhower proclaimed Alaska a full-fledged state in the federal union.

Almanacs and history books will refer to it. The almanacs will say it was the day Alaska became a state. History books may go further and say it became the 49th state, and was the only state admitted in 42 years, the longest span in the nation's history during which the family of states was not enlarged.

If writings of the past are a measure, it can be predicted that history books of the future will be inclined to use January 3, 1959 as the "beginning" point in discussions of Alaska. Historians are often inclined to make hardly more than a reference to the years statehood.

Thus Ala of

They are concerned with the new responsibilities that come with statehood. The power to do for themselves many of the things they have had to depend on others to do.

The proclamation making Alaska a state is more serious than it is an occasion for jubilation and hilarity. It marks the beginning of the long travail that is inevitable to pump life into the embryo that is called state government.

Although serious, Alaskans are approaching the task with confidence and deliberateness that augur well for the future. They have succeeded in using wisely and well those powers of government given to them in the past. They can be just as successful in the great future that is now theirs.

BE NNING the right to Alaskans have won govern every one of

of the basic goals vernment. It is a with self-government way. It is a ion and to the

merican flag, redesigned the people of Alaska as the state, is a reflection of this great place that has been granted them in the federal union.

The attitude of Alaskans is reflected in the report of a flag manufacturing concern which noted one salesman in Alaska has taken more orders for the new 49-star flag than has its entire sales organization throughout the nation.

The Washington Post

WEDNESDAY, JULY 2, 1958 PAGE A16

Welcome to the 49th

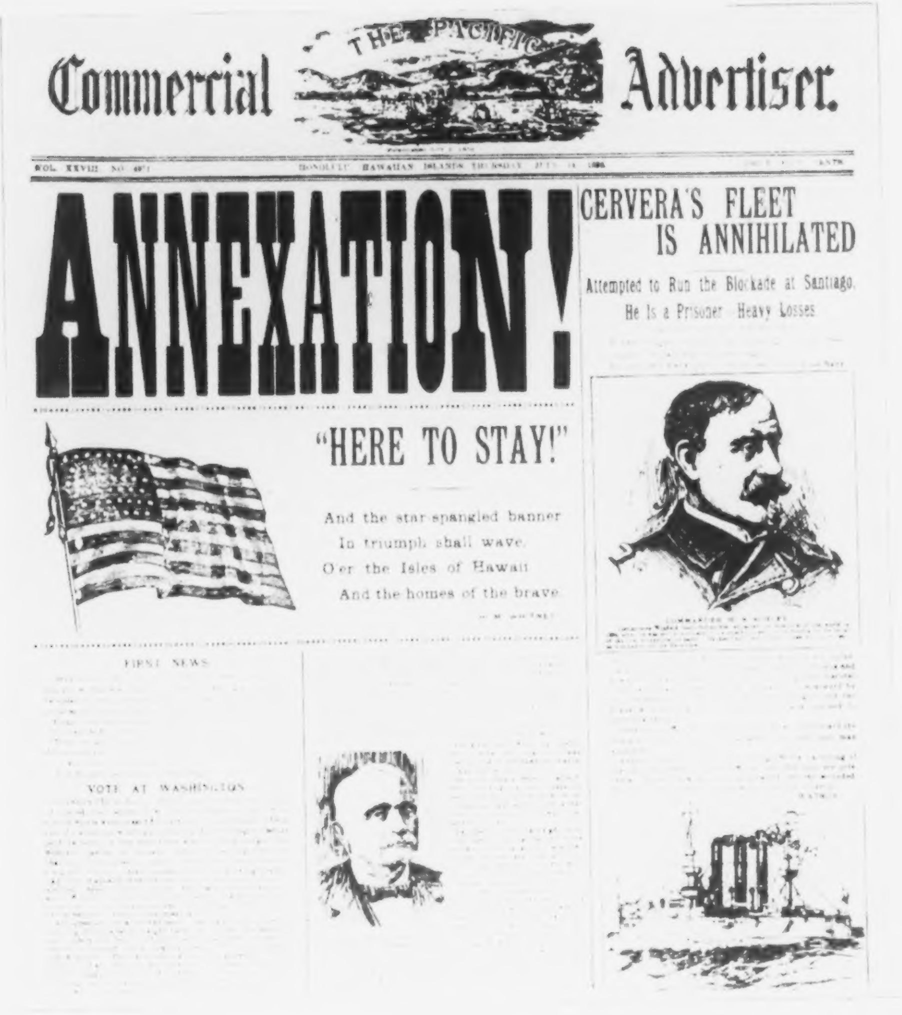
at has rned with the with statehood. The remote controls over airs by a government that is ant and often indifferent to their needs.

HAWAIIAN STATEHOOD

The United States' formal association with what was to become its fiftieth State began in 1894, when the Republic of Hawaii was established following the deposition of Queen Liliuokalani. The republic's legislature requested annexation by the United States, an idea that Kamehameha III had suggested forty years earlier. While the treaty of annexation was still pending in the Senate, war with Spain broke out and the U.S. used the islands (Pearl River lagoon) as a strategic Naval base. Formal annexation occurred in 1898 and Hawaii became a U.S. incorporated territory in 1900.

In 1919, Hawaii's congressional delegate, Kuhio Kalanianeole, introduced the first in a long series of Hawaiian statehood bills. In 1935, a House subcommittee went to Hawaii to judge statehood sentiment. A joint House-Senate delegation, including Senator O'Mahoney from the Committee on Public Lands, returned in 1937 to hold further hearings; the delegation recommended that a plebiscite be held to determine popular preferences. The plebescite was conducted in 1940 with Hawaiians voting by a margin of more than 2–1 in favor of statehood. Seven years later, the House passed a Hawaiian statehood bill by a vote of 185–133. Several Senators, including Chairman Butler of the Senate Interior Committee, then visited the islands in 1948, and became convinced that the charges of communist infiltration of several Hawaiian labor organizations needed further investigation before Hawaiian statehood could be considered.

When Senator Butler subsequently reported that these charges had been exaggerated, the principal remaining objection to Hawaiian statehood was its distance from the continental United States. In 1954, the Senate Interior Committee reported Alaskan and Hawaiian statehood bills, which were combined and passed as one measure. However, the bill died when the House Rules Committee failed to bring it to the House floor. The Senate Interior Committee favorably reported S. 50, a Hawaiian statehood bill, on March 3, 1959, and the Senate passed it on March 11 by a vote of 76–15. On the following day, the House voted 323–83 to pass S. 50 and make Hawaii the fiftieth State. President Eisehower signed the bill on March 18, 1959, and on June 27, Hawaii endorsed statehood in a referendum by a margin of more than 17–1. Hawaii was proclaimed the fiftieth State on August 21, 1959.



THE PACIFIC Commercial Advertiser.

VOL. XXVIII. NO. [illegible] HONOLULU, HAWAIIAN ISLANDS, THURSDAY, JULY [illegible] 1898.

ANNEXATION!

"HERE TO STAY!"

And the star-spangled banner
In triumph shall wave,
O'er the Isles of Hawaii
And the homes of the brave.

FIRST NEWS

VOTE AT WASHINGTON

CERVERA'S FLEET IS ANNIHILATED

Attempted to Run the Blockade at Santiago.
He Is a Prisoner—Heavy Losses

People of the Canoe

Hawaii's history in story and legend is ancient and proud, dating back at least a thousand years before the American colonies became a nation in 1776. It is highly unlikely that the exact date when Polynesian people first set foot on these previously uninhabited islands will ever be known, nor much detail about events occurring between that date and the first contact with Europeans. The Hawaiians were a people without writing, who preserved their history in chants and legends. Much of that early history has disappeared with the death of kahunas and other learned men whose function it was to pass on this knowledge, by means of chants and legends to succeeding generations.

Modern Hawaiian history begins on January 20, 1778, when Captain James Cook's expedition made its first contact with the Hawaiian people on the islands of Kauai and Niihau. On that day, Hawaii's long isolation from the world beyond its horizons came to an end. So began a most colorful, and sometimes tragic chapter of our nation's history. Certainly it was the most unusual. Beginning with a traditional Polynesian society, Hawaii evolved through an almost bewildering series of cultural and social events that included: nationhood; contact with Western technology and ideas; population decline; massive immigration of non-Polynesians; overthrow of the Monarchy; a short-lived Republic; annexation as a U.S. Territory; World War II; and statehood.

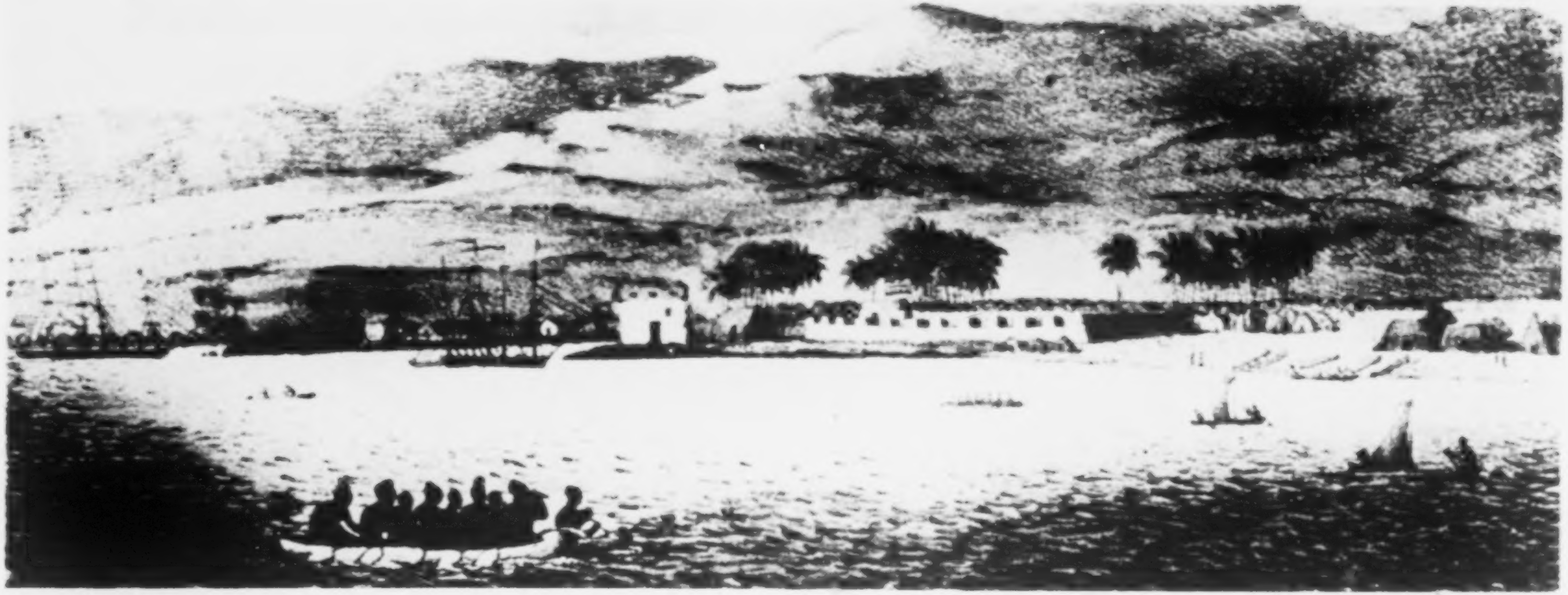
Although Captain Cook was English, Hawaii's proximity to the U.S. resulted in an early American interest and influence that eventually culminated in statehood. While there were sporadic attempts by the British and the French to bring the islands into their spheres of influence, the American presence was always dominant. American whaling fleets began wintering in Hawaii as early as 1819, and by 1844 as many as 490 American whaling ships crowded Honolulu and Lahaina waters. Protestant missionaries from puritan New England arrived in 1820 to leave a peculiarly American imprint on Hawaii's society and attitudes. At any one time during the Hawaiian monarchy the majority of foreigners residing in the islands were Americans.

Major events in American history invariably affected Hawaii. The California Gold Rush of 1849 stimulated Hawaiian agriculture, and high prices were paid for Hawaiian suger, vegetables and meat. Several years later the American Civil War sparked a dramatic expansion of Hawaii's sugar industry to supply the Union when the North was cut off from Southern sugar. The Spanish-American War, from which the U.S. gained bases in the Phillippines and Guam, crystalized American military opinion as to Hawaii's strategic central Pacific location. Annexation of Hawaii to the U.S. followed rapidly. The Japanese attack on Pearl Harbor proved a tragic confirmation of Hawaii's strategic value. Today, Hawaii continues to be the nation's bastion of defense in the Pacific.

Because of this early and lasting American influence, Hawaii's social and economic institutions became patterned after those of the U.S., a process accelerated by the fact that significant American contact began at a time when the Hawaiian culture was rapidly disintegrating. Yet there were always differences.

Hawaii's record of assimilating people of different races and nationalities was unequaled by any other State in the Union. Today, about forty percent of the marriages in the State are between people of different races. Hawaii's culture still retains aspects of its Polynesian heritage along with an unmistakeable Oriental influence. The fact that Hawaii is an island group also had an effect. Local lifestyles and values became influenced by the Islands' 3000 nautical mile isolation from the mainland as well as by the varied ethnic backgrounds and intermingling of its racial groups. As a result, Hawaii's people have always felt unique and different from their mainland cousins.

This sense of uniqueness is now being endangered by rapid economic development, urbanization and increased population growth—all of which now threaten to erode Hawaii's culture and natural beauty. But if the broad sweep of Hawaiian history suggests anything, it is that the island ways of doing and perceiving things will survive conformist pressures and that Hawaii will retain much of its cherished uniqueness and special way of life. *Hawaiian Journey,* Mutual Publishing Company Bicentennial Year of 1976.



View of port Hanarourou, 1816. The spelling was later changed to Honolulu.

Archives, State of Hawaii

HAWAII PROCLAIMED FIFTIETH STATE

PROCLAMATION 3309—ADMISSION OF THE STATE OF HAWAII INTO THE UNION

WHEREAS the Congress of the United States by the act approved on March 18, 1959 (73 Stat. 4), accepted, ratified, and confirmed the constitution adopted by a vote of the people of Hawaii in an election held on November 7, 1950, and provided for the admission of the State of Hawaii into the Union on an equal footing with the other States upon compliance with certain procedural requirements specified in that act; and

WHEREAS it appears from the information before me that a majority of the legal votes cast at an election on June 27, 1959, were in favor of each of the propositions required to be submitted to the people of Hawaii by section 7(b) of the act of March 17, 1959; and

WHEREAS it further appears from information before me that a general election was held on July 28, 1959, and that the returns of the general election were made and certified as provided in the act of March 18, 1959; and

WHEREAS the Governor of Hawaii has certified to me the results of the submission to the people of Hawaii of the three propositions set forth in section 7(b) of the act of March 17, 1959, and the results of the general election; and

WHEREAS I find and announce that the people of Hawaii have duly adopted the propositions required to be submitted to them by the act of March 18, 1959, and have duly elected the officers required to be elected by that act:

NOW, THEREFORE, I DWIGHT D. EISENHOWER, President of the United States of America, a hereby declare and proclaim that the procedural requirements imposed by the Congress on the State of Hawaii to entitle that State to admission into the Union have been complied with in all respects and that admission of the State of Hawaii into the Union on an equal footing with the other States of the Union is now accomplished.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington at four p.m. E.D.T. on this twenty-first day of August in the year of our Lord nineteen hundred and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER.

[SEAL]

CHRISTIAN A. HERTER,
Secretary of State.

THE DISTRICT OF COLUMBIA

The National Government was transferred to the District of Columbia from New York City in 1800. In 1802, a small portion of the District was incorporated into the city of Washington, governed by an appointed mayor and elected city council. Ten years later, the city's charter was amended to provide for an elected board of aldermen which, along with the council, selected the mayor. In 1820, the charter was again modified to allow the city of Washington to elect its mayor. The remainder of the District was divided between the city of Georgetown and the county of Washington until June 1, 1871, when the three separate jurisdictions were merged into a single municipality. The consolidated District was placed under a territorial form of government, headed by a governor and council named by the President. In 1874, Congress abolished the territorial government and established a three-member Board of Commissioners appointed by the President, which governed the District until replaced by the present home rule government.

Efforts to give representation in Congress to the District of Columbia culminated in passage of P.L. 91–405, which provided for a non-voting delegate, who was first elected in 1971. A proposed constitutional amendment, which would have allowed the District to elect two Senators and at least one Representative, all with the authority to vote, was passed in 1978 (H.J. Res. 554, 95th Congress). Only sixteen States approved the amendment, however, for less than the three-fourths required for ratification, and it died in 1985 at the expiration of the seven-year ratification deadline mandated in the legislation. Alternatively, some Senators and Representatives have expressed interest in the possibility of enacting legislation to grant statehood to the District. To this end, H.R. 51 was introduced in the 100th Congress.

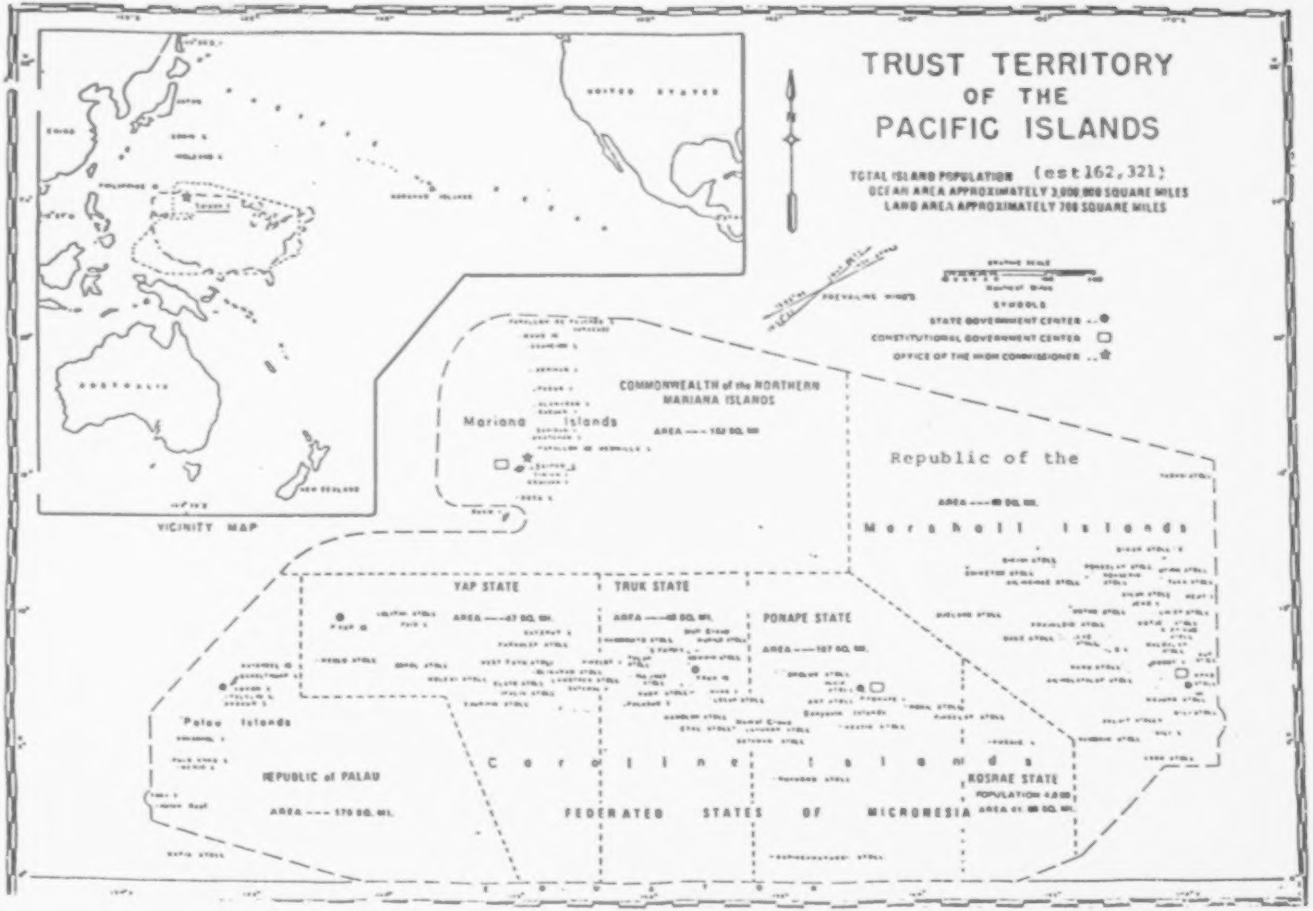
TRUST TERRITORY OF THE PACIFIC ISLANDS

The island groups of Marshalls, Carolines, Palau and Marianas in Micronesia which had been under Japanese mandate from the League of Nations were placed under United States Administration by the United Nations after World War II. Although not United States territories, the islands were administered by the U.S. from 1947 as a United Nations Trusteeship. As an eventual result of negotiations begun in 1969 to terminate this trusteeship, the constitution of the *Republic of the Marshall Islands* went into effect on May 1, 1979; that of the *Federated States of Micronesia* (Caroline Islands) on May 10, 1979; that of the *Republic of Palau* on January 1, 1981, and that of the *Northern Mariana Islands* on January 9, 1978.

After 17 years of deliberations, the 99th Congress passed the Compact of Free Association for the Federated States of Micronesia and the Republic of the Marshall Islands (P.L. 99–239). As freely-associated states, these entities have become completely self-governing, exercising sovereignty over their internal and foreign affairs, while the U.S. retains full responsibility and authority for security and defense matters.

When Congress approved P.L. 99–239, it postponed legislation on the other Micronesian entity, Palau, until the people of Palau ratified the Compact in accord with provisions of the Palauian constitution, which required approval by a 75 percent majority. Even though successive plebiscites failed to meet this requirement, Congress enacted the Palau Compact (P.L. 99–658). Subsequently, a constitutional referendum was held on August 4, 1987, which resulted in approval of an amendment to the Palauan constitution to require only a simple majority vote to approve the Compact. Thereafter, another plebescite to approve the Compact was held on August 21, 1987, with 73 percent voting in favor of ratification. However, on August 29, 1988, the Appellate Division of the Palau Supreme Court ruled that the August 4, 1988, constitutional referendum was ruled void because the public law which authorized the referendum was null and void. In the 100th Congress, Senator Johnston introduced S.J. Res. 231, to authorize the entry into force of the Palau Compact of Free Association following approval in Palau. Although this bill passed the Senate March 28, 1988, no agreement was reached with the House. The question of implementing legislation is thus held over to future Congresses.

The Compact of Free Association between the Micronsesian entities and the United States represents a unique arrangement. The key provisions of the Compact—affecting economic assistance, foreign affairs, and domestic authority—were carefully crafted and represent many years of planning. The care and diligence exercised by this Committee has demonstrated that the people of offshore areas have been free to work out their political relations with the United States in ways best suited to their circumstances. It is a fine example of how our territorial policy has evolved to fulfill the wishes and needs of the territories themselves.


TRUST TERRITORY
OF THE
PACIFIC ISLANDS
TOTAL ISLAND POPULATION (est 162,321;
OCEAN AREA APPROXIMATELY 3,000,000 SQUARE MILES
LAND AREA APPROXIMATELY 700 SQUARE MILES
N
PREVAILING WINDS
GRAPHIC SCALE
NAUTICAL MILES
SYMBOLS
STATE GOVERNMENT CENTER ●
CONSTITUTIONAL GOVERNMENT CENTER ▭
OFFICE OF THE HIGH COMMISSIONER ★
VICINITY MAP
UNITED STATES
AUSTRALIA
NEW ZEALAND
HAWAIIAN ISLANDS
CHINA
PHILIPPINES
JAPAN
COMMONWEALTH of the NORTHERN MARIANA ISLANDS
Mariana Islands
AREA 182 SQ. MI.
Republic of the
Marshall Islands
YAP STATE
AREA 47 SQ. MI.
TRUK STATE
PONAPE STATE
AREA 187 SQ. MI.
KOSRAE STATE
Palau Islands
REPUBLIC of PALAU
AREA 179 SQ. MI.
Caroline Islands
FEDERATED STATES OF MICRONESIA
EQUATOR

CURRENT U.S. INSULAR POSSESSIONS

Commonwealth of Puerto Rico

Puerto Rico is the largest, most populous U.S. territory. Occupying a land area of about 3,500 square miles, the island is located 885 miles southeast of Florida and has about 3.3 million inhabitants.

Puerto Rico was acquired by the United States from Spain in 1898 as part of the Treaty of Paris. By acts passed by Congress in 1900 and 1917, Puerto Ricans were granted American citizenship, a non-voting Resident Commissioner in Congress, and an elected legislature. The Federal Government retained supervision of financial aid projects and the right to veto acts of the Puerto Rican legislature. Puerto Rico elected its first governor in 1948, and in the following year, Congress enacted the O'Mahoney-Butler bill, providing for a territorial referendum to gauge popular support for a constitutional convention. This act was named in honor of the chairman and ranking minority member of the Senate's Interior Committee. In 1952, Puerto Rico was granted commonwealth status and its own Constitution.

Of all the current territories, Puerto Rico has had the longest history of self-government. Even before becoming a commonwealth in 1952, its residents had debated the island's political status and relationship to the United States. Public opinion remains divided on whether to continue or modify the commonwealth arrangement or to seek statehood or independence instead. Since the mid-1970's, a number of proposals have been offered. A modified commonwealth proposal was introduced in 1975, followed more recently by various statehood measures. The options for Puerto Rico's future remain a subject that permeates its political debates.

Commonwealth of the Northern Mariana Islands

The *Northern Mariana Islands* (NMI) consist of twenty-one islands, with a land area of approximately 185 square miles; only six of the islands are inhabited. The NMI are approximately 6,000 miles from the mainland United States. The population is estimated at 17,000 with the majority living on the largest island, Saipan. The economy depends heavily on public employment. The Commonwealth of the Northern Mariana Islands was one of four governments originally under the Trust Territory of the Pacific Islands. As administering authority for the Trust Territory, the United States was charged with promoting its political, social, educational, and economic development. As noted previously, negotiations began in 1969 to terminate that trusteeship arrangement.

In May 1972, the Marianas District Legislature created a Political Status Commission which reached an agreement in 1975 with the United States regarding the establishment of a Commonwealth of the Northern Mariana Islands (CNMI). In 1975 the commonwealth proposal was approved by the Marianas Legislature and by the people of the islands in a UN-observed plebiscite. The plebiscite, with 95 percent of those eligible participating, resulted in 78.8 percent of the voters favoring establishment of the commonwealth. Congress also approved and, on March 24, 1976, President Ford signed H.J. Res. 549 (P.L. 94-241) approving the "Covenant to

Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States."

Although the commonwealth was inaugurated in 1978, it only became fully effective in all aspects pursuant to Presidential Proclamation 5564 issued November 3, 1986. On January 14, 1986, the 99th Congress passed authorizing legislation for the Compact of Free Association between the U.S. and the Republic of the Marshall Islands and the Federated States of Micronesia (P.L. 99-239). These Compacts also went into effect in late 1987 pursuant to Presidential Proclamation 5564, thus terminating the Trust Territory with respect to these two areas and with respect to the CNMI.

Also introduced but not passed in the 99th Congress was a bill, S. 2735, cosponsored by Senator Johnston to implement the recommendations of the Commission of the Commonwealth of the Northern Mariana Islands. The task proposed for the commission was to survey the applicability of Federal laws to the new commonwealth. The bill also would have provided for the Northern Marianas to be represented in Congress by a non-voting delegate. Under the terms of Section 902 of the Covenant with the CNMI, the U.S. and CNMI are discussing issues of mutual concern in their relationship with the United States. In connection with those discussions the Energy and Natural Resources Committee continues to study and resolve issues during these first few years of commonwealth status.

Territory of Guam

Guam lies about 6,000 miles southwest of San Francisco. It has an area of 209 square miles and a population of about 105,000. Over 20 percent of the population consists of military personnel, other Federal employees, and their dependents. The island was acquired from Spain under the terms of the Treaty of Paris at the end of Spanish-American War in 1898, and was under the administration of the Department of the Navy until 1950, when it was transferred to the Department of the Interior. In 1950, Congress passed an organic act, recommended by the Senate's Interior Committee, that extended American citizenship to Guamanians and provided for a unicameral elected legislature, an independent judiciary, and an appointive governor. As a result of subsequent amendments to the organic act, Guam now elects its governor, and since 1972, a nonvoting delegate to Congress.

More clearly defining its political status and its relationship with the Federal Government has been one of Guam's highest priorities. Guamanians voted overwhelmingly for commonwealth status in 1982 and approved a Draft Commonwealth Act in 1987. A bill to establish a commonwealth for Guam has been introduced in the 100th Congress. Guam's efforts to establish a new political status illustrate the evolving relationship between the territories and the Federal Government. As this relationship continues to evolve, this Committee's principal concern has been to promote economic, social and political development in the island.

American Samoa

American Samoa's seven islands have a land area of 76 square miles and are about 4,100 miles from the U.S. mainland. Over 96 percent of the land is owned communally. American Samoa's population is about 34,000. Acquired in 1899, Samoa was under the jurisdiction of the Navy Department until 1951; its governor was the naval commander of Pago Pago, American Samoa's principal port. No organic act was passed, and its rudimentary government had purely advisory functions. In 1951, control over Samoa was transferred by executive order from the Navy to the Department of the Interior. The local governing constitution ratified by the Samoans was approved by the Department without formal congressional consent.

The 1983 Omnibus Territory Act was amended to include a provision that any changes to the American Samoa Constitution be made only by an Act of the Congress. Some Samoans are concerned, however, that the involvement of the Federal Government can pose a threat to their institutions, such as communal land ownership, and their traditional social system. With this in mind, it has been the policy of the Committee to give the greatest practicable deference to the preferences of the Samoans themselves.

U.S. Virgin Islands

The United States *Virgin Islands* lie 1,450 miles south of New York City. They encompass an area of 133 square miles and a population of about 109,500. Over 30 percent of the workforce is employed by the territorial government.

The Virgin Islands were a Danish territory until they were purchased by the United States in 1917. In 1927, Congress extended American citizenship to residents of the islands, and in 1931, administrative control over them was shifted from the Navy Department to the Interior Department and an appointed governor. Organic legislation was first passed in 1936 (49 Stat. 1812), and was revised by Public Law 83-517, effective July 22, 1954 (48 U.S.C. et seq.). The latter has since been amended in various respects. The Virgin Islands' elective officials first took office on January 3, 1978. Most recently, the voters of the Virgin Islands received the right to exercise the power of initiative, referendum and recall.

For several years, the Virgin Islands' political development efforts centered on replacing its organic act with a constitution. More recently, however, priority has shifted to discussions of political status reflecting what some territorial leaders believe to have been an ambiguous U.S. territorial policy. Since 1980, the Virgin Islands have initiated three political status commissions. The first was charged with examining the territory's present relationship with the United States and suggesting status options for the voters to consider in a referendum. The second, initiated by the Virgin Islands legislature, created a committee to consider the question of status and to propose a "Compact of Federal relations" between the Virgin Islands and the United States. In the most recent proposal, the legislature passed a bill to hold a status referendum in March 1988. The bill also created a commission that would examine various options for political status and conduct public education programs to prepare for a vote on these options in 1989.

Other

The United States also exercises jurisdiction over a number of smaller insular possessions. The uninhabited Baker, Howland, and

Jarvis Islands are located about 1,600 miles southwest of Hawaii. They were placed under the Secretary of the Interior's jurisdiction in 1936 and are administered by the Fish and Wildlife Service. Johnston Atoll, about 700 miles southwest of Hawaii, was annexed by the United States in 1858. Johnston was under the Department of the Navy's jurisdiction from 1934 to 1948, when operational control was transferred to the Air Force. The Defense Nuclear Agency now administers the island. Approximately 325 U.S. military and civilian personnel are stationed on Johnston. The island has no indigenous population.

Kingman Reef is uninhabited and located about 920 miles south of Hawaii. Annexed in 1922, it was placed under the Department of the Navy's jurisdiction in 1934. Midway Island, an atoll about 1,200 miles northwest of Hawaii, was annexed in 1867. It also is administered by the Department of the Navy and has no native population. Currently, Midway is inhabited by a small number of military and civilian personnel. Navassa Island is about 30 miles off the west coast of Haiti. The United States has claimed and exercised jurisdiction over the island since 1858. The Coast Guard is responsible for maintaining the navigational light on this small island. Palmyra Island, consisting of more than 50 islets, lies about 1,000 miles south of Hawaii. Annexed with Hawaii in 1898, Palmyra is uninhabited and privately owned. Finally, Wake Island is located approximately 2,300 miles west of Hawaii and 1,500 miles northeast of Guam. Wake's total land area is about 2.5 square miles. The island is the site of a U.S. Air Force air field and houses a small number of military and civilian personnel. In 1972, Wake Island's civil administration was transferred to the Air Force, although the Interior Department formally retains jurisdiction.

CHRONOLOGICAL LIST OF PERTINENT LEGISLATION

1800–1819

District of Columbia made Nation's Capital, Act of February 27, 1801, Chap. 15, 6th Congress, 2nd Session (2 Stat. 103)

Act providing for the purchase of the Louisiana Territory, October 31, 1803, Chap. 1, 8th Congress, 1st Session (2 Stat. 245)

Act confirming the Adams-Omis Treaty, Act of March 3, 1819, Chap. 93, 15th Congress, 2nd Session (3 Stat. 523)

1820–1839

Act providing for the Missouri compromise of 1820, Act of March 6, 1820, Chap. 2, 16th Congress, 1st Session (3 Stat. 545)

1840–1859

Act providing for the annexation of Texas, Act of March 1, 1845, Res. 8, 25th Congress, 2nd Session (5 Stat. 797)

Act providing for Florida Statehood, Act of March 3, 1845, Chap. 48, 28th Congress, 2nd Session (5 Stat. 742)

Act providing statehood for Iowa, Act of March 3, 1845, Chap. 48, 28th Congress, 2nd Session (5 Stat. 742)

Act ratifying the Treaty of Oregon, Act of June 15, 1846, 29th Congress, (9 Stat. 869)

Act providing statehood for Wisconsin, Act of May 29, 1848, Chap. 50, 30th Congress, 1st Session (9 Stat. 233)
Act ratifying the Treasury of Guadalupe-Hidalgo, Act of February 2, 1848, 30th Congress, (9 Stat. 922)
Act providing statehood for California, Act of September 9, 1850, Chap. 50, 31st Congress, 1st Session (9 Stat. 452)
Ratification of the Kansas-Nebraska Act, Act of May 30, 1854, Chap. 59, 33rd Congress, 1st Session (10 Stat. 277)
Act ratifying the Gadsden Purchase of 1853, Act of June 29, 1854, Chap. 71, 33rd Congress, 1st Session (10 Stat. 301)

1860–1879

Act providing for the Alaska Purchase in treaty with Russia, Act of March 30, 1867, 40th Congress, (15 Stat. 539)
Act providing for territorial form of Government for the District of Columbia Act of February 21, 1871, Chap. 62 41st Congress, 3rd Session (16 Stat. 419)
Act providing for the abolition of D.C. Territorial government, Act of June 20, 1874, Chap. 337, 43rd Congress, 1st Session (18 Stat. 116)

1880–1889

Act providing for the first Organic Act for Alaska, Act of May 17, 1884, Chap. 43, 48th Congress, 1st Session (23 Stat. 24)

1890–1899

Joint Resolution providing for the Annexation of Hawaii, Act of July 7, 1898, Res. 55, 55th Congress, 2nd Session (30 Stat. 750)
Protocol ratifying the Treaty of Paris between United States and Spain, Act of August 12, 1898, 55th Congress (30 Stat. 1742)
Act confirming the acquisition of American Samoa, Act of February 9, 1898, 55th Congress, 3rd Session (30 Stat. 826)

1900–1909

Foraker Act providing a civil government for the territory of Puerto Rico, Act of April 12, 1900, Chap. 191, 56th Congress, 1st Session (31 Stat. 77)
Act making Hawaii an incorporated territory, Act of April 30, 1900, Chap. 339, 56th Congress, 1st Session (31 Stat. 141)

1910–1919

Act providing an Organic Act for the State of Alaska, Act of August 24, 1912, Public Law 62–334 (37 Stat. 512)
Act ratifying treaty with Denmark for the purchase of the Virgin Islands, Act of January 17, 1917, (39 Stat. 1706)

1920–1929

Act providing U.S. citizenship for the Virgin Islands, February 25, 1927, Public Law 69–640, (44 Stat. 1234)

1930–1939

Virgin Islands first Organic Act, Act of June 22, 1936, Public Law 74–749 (49 Stat. 1807)

1940–1949

Proclamation providing Philippine Independence, Act of July 4, 1946, 79th Congress, (60 Stat. 1352)
Treaty ratifying Trust Territory Administration, July 18, 1947, T.I.A.S. 1665, (61 Stat. 3301)

1950–1959

Guam Organic Act, Act of August 1, 1950, P.L. 81–630 (64 Stat. 384)

1950–1969

O'Mahoney-Butler Act regarding Puerto Rico to provide for organization of Constitutional government, June 30, 1950, P.L. 81–600 (64 Stat. 319)
Act granting Alaskan Statehood, July 7, 1958, P.L. 85–508 (72 Stat. 339)
An Act granting Statehood to Hawaii, March 16, 1959, P.L. 86–3 (73 Stat. 74)

1960–1969

Act providing for an elected Governor in the Virgin Islands and Guam, August 23, 1968, P.L. 90–496 (82 Stat. 837)

1970–1979

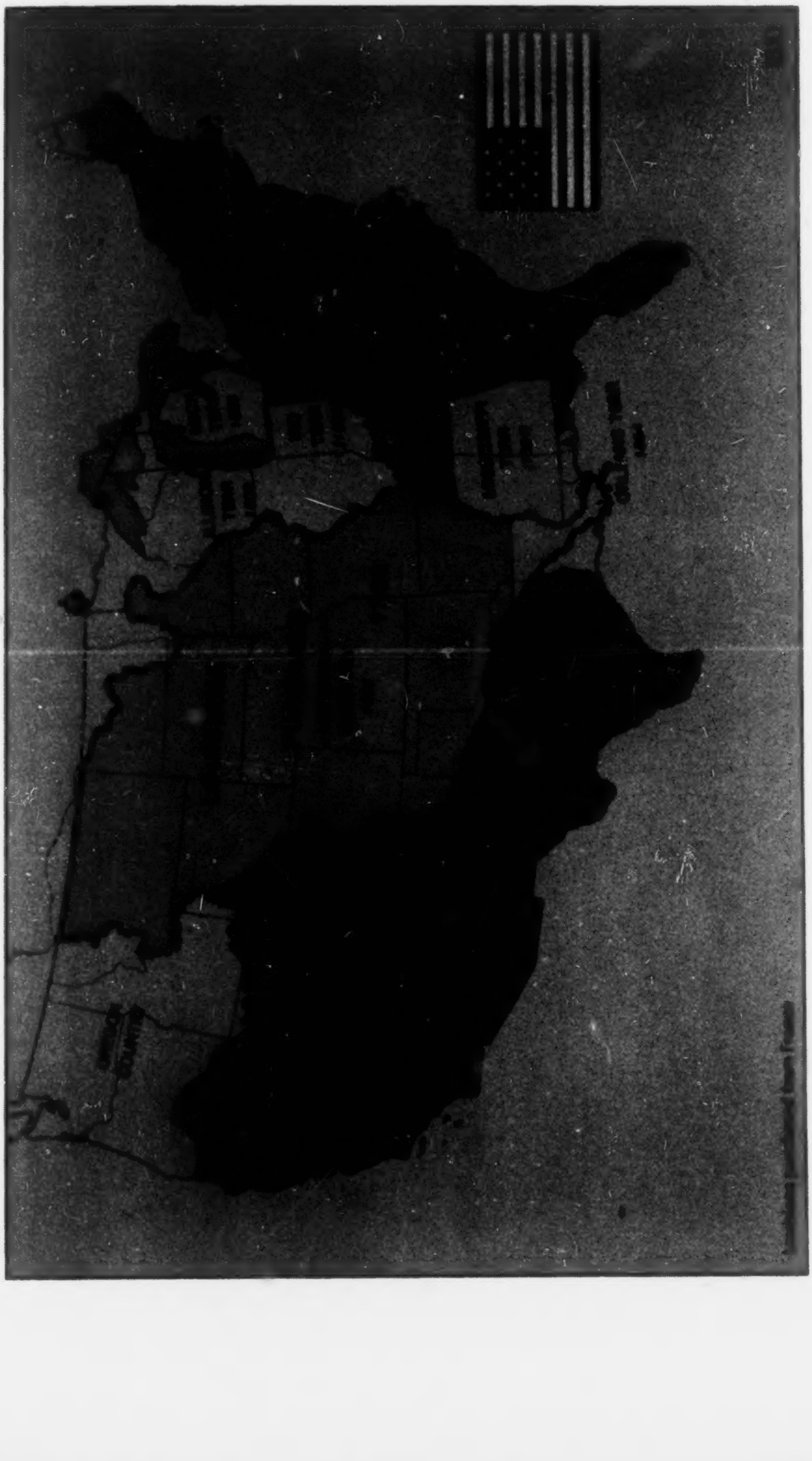
An Act providing for non-voting delegate to Congress for the Virgin Islands and Guam, April 10, 1972, P.L. 92–271 (86 Stat. 118)
An Act approving the Northern Mariana Islands Covenent, March 24, 1976, P.L. 94–241, (90 Stat. 263)
Act providing for a non-voting delegate to Congress for American Samoa, October 31, 1980, P.L. 95–556, (92 Stat. 2078)
Omnibus Territories Act of August 18, 1978, P.L. 95–348, (92 Stat. 487)

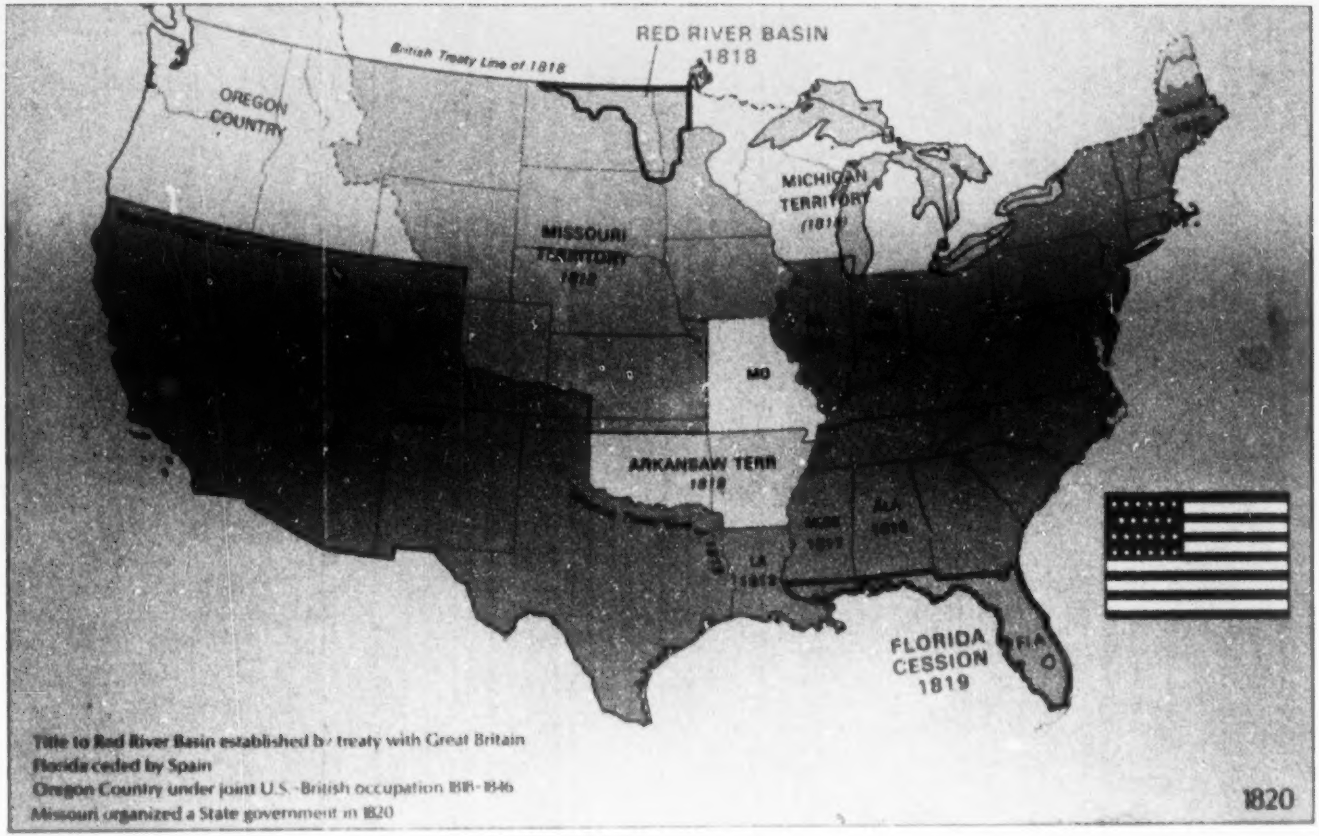
1980–Present

Territorial Oversight, P.L. 96–205, (94 Stat. 84)
Act providing oversight legislation for territories, March 12, 1980, P.L. 96–205, (94 Stat. 84)
Act providing oversight legislation for territories, December 24, 1980, P.L. 96–597, (94 Stat. 3477)
Act approving the Micronesian Compact of Free Association, January 14, 1986, P.L. 99–239, (99 Stat. 1770)
Act approving the Palau Compact of Free Association, October 15, 1986, P.L. 99–658, (100 Stat. 3672)

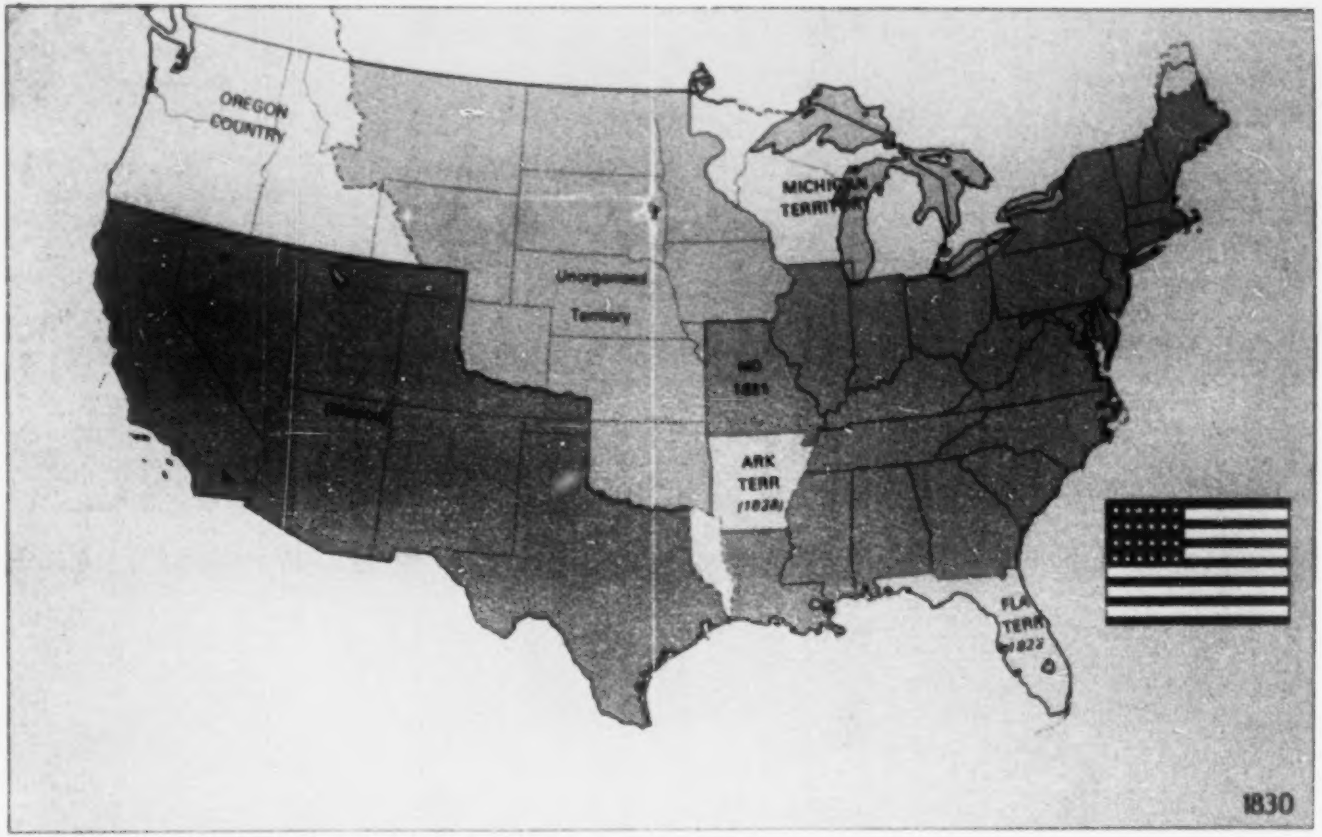
GROWTH OF THE NATION

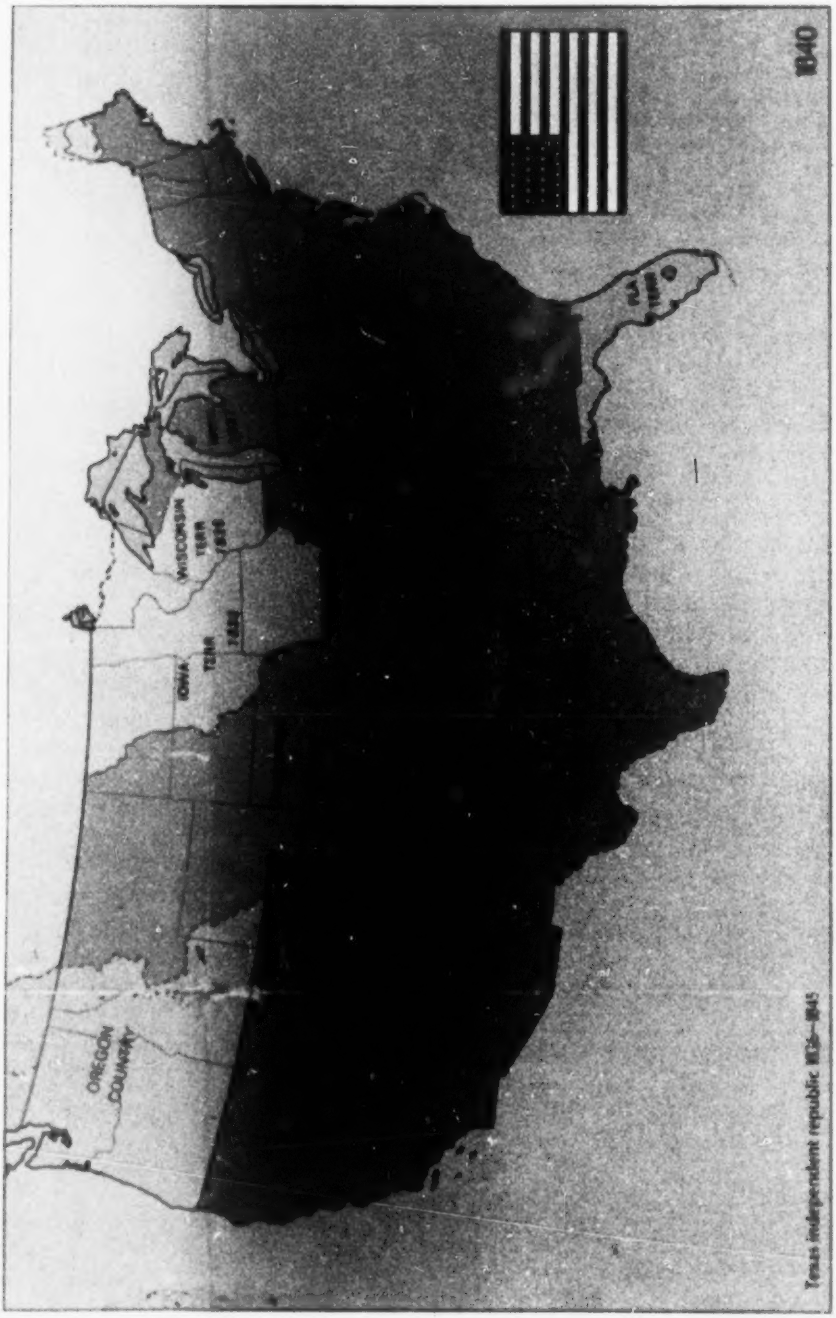
The following maps, courtesy of the U.S. Geological Survey, depict the opening of the west and the creation of states following the purchase of the immense Louisiana Territory in 1803 and subsequent public lands and territorial acquisitions.

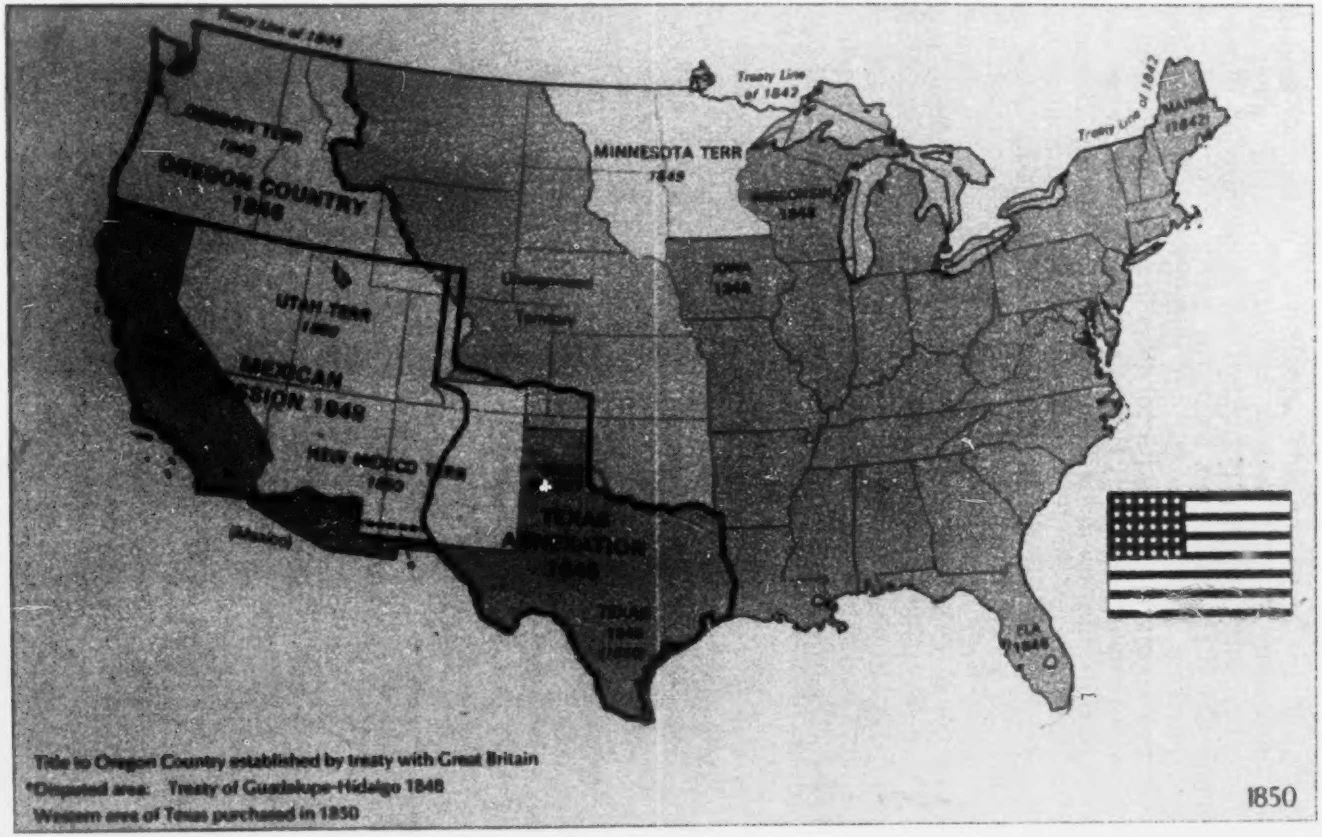



RED RIVER BASIN
1818
British Treaty Line of 1818
OREGON COUNTRY
MISSOURI TERRITORY
1812
MICHIGAN TERRITORY
(1818)
MO
ARKANSAW TERR
1819
LA
1812
MISS
1817
ALA
1819
FLORIDA CESSION
1819
FLA
1820

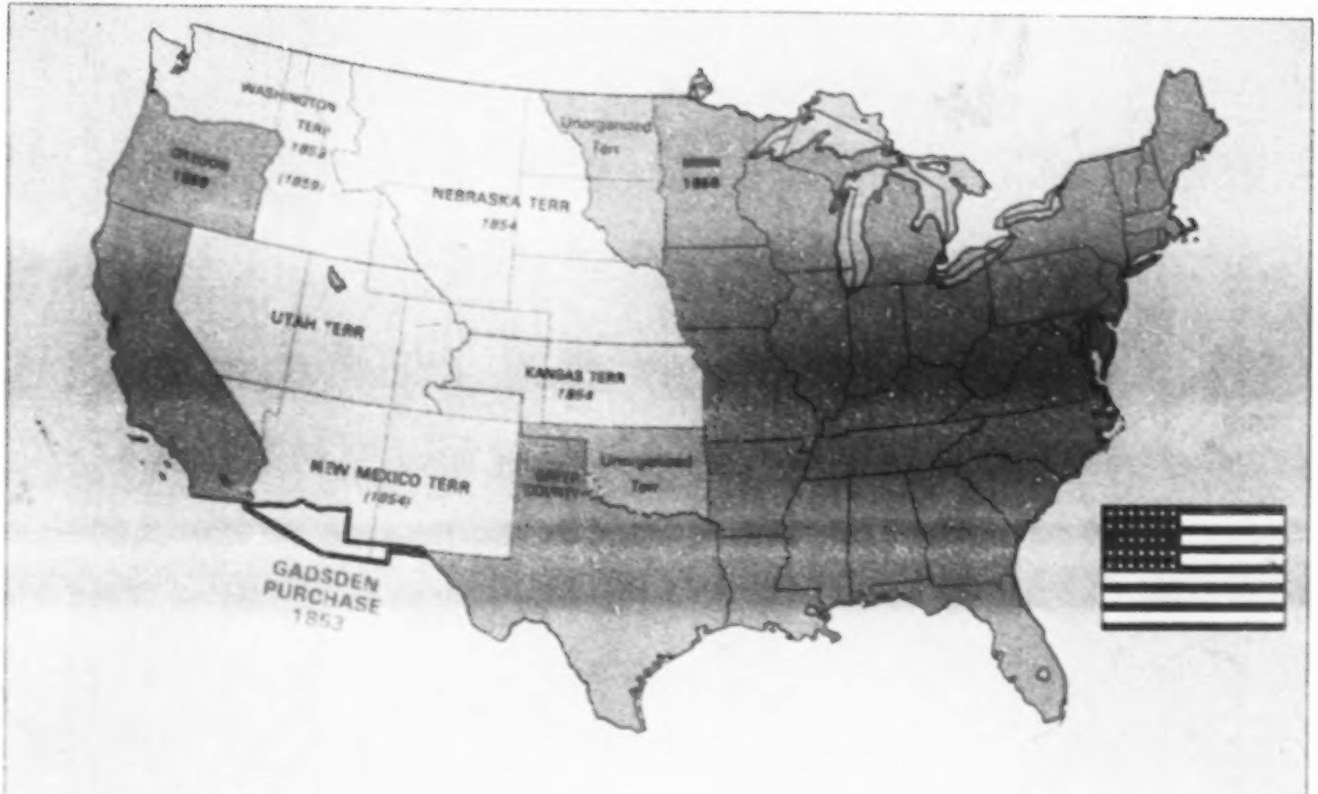
Title to Red River Basin established by treaty with Great Britain
Florida ceded by Spain
Oregon Country under joint U.S.-British occupation 1818-1846
Missouri organized a State government in 1820


OREGON COUNTRY
Unorganized Territory
MICHIGAN TERRITORY
MO 1821
ARK TERR (1828)
FLA TERR 1822
1830


OREGON COUNTRY
IOWA TERR 1838
WISCONSIN TERR 1836
FLA TERR
1840
Texas independent republic 1836–1845

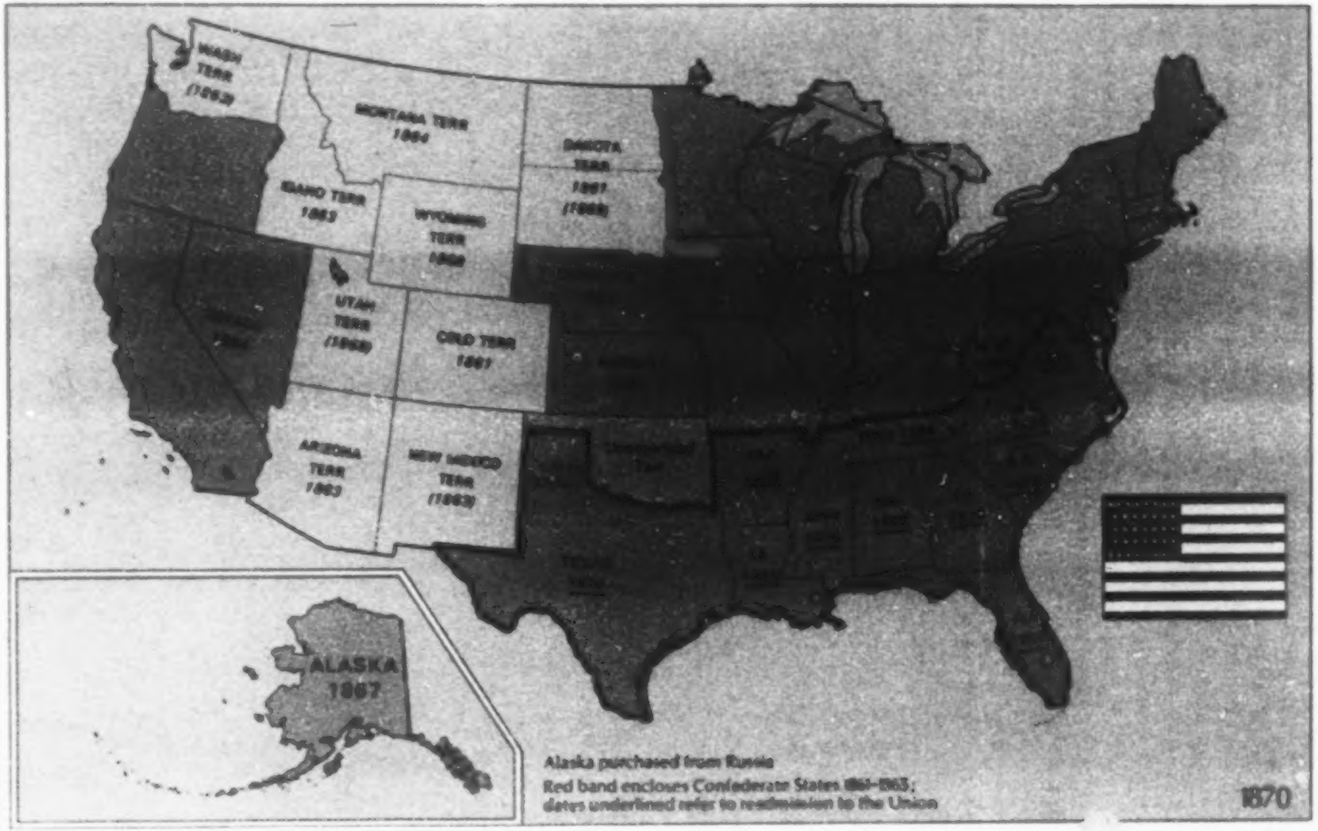

Treaty Line of 1846
Treaty Line of 1842
Treaty Line of 1842
MAINE (1842)
MINNESOTA TERR 1849
WISCONSIN 1848
IOWA 1846
OREGON TERR 1848
OREGON COUNTRY 1846
UTAH TERR 1850
MEXICAN CESSION 1848
NEW MEXICO TERR 1850
(Mexico)
TEXAS ANNEXATION 1845
TEXAS 1845
FLA 1845
1850

Title to Oregon Country established by treaty with Great Britain
*Disputed area: Treaty of Guadalupe-Hidalgo 1848
Western area of Texas purchased in 1850

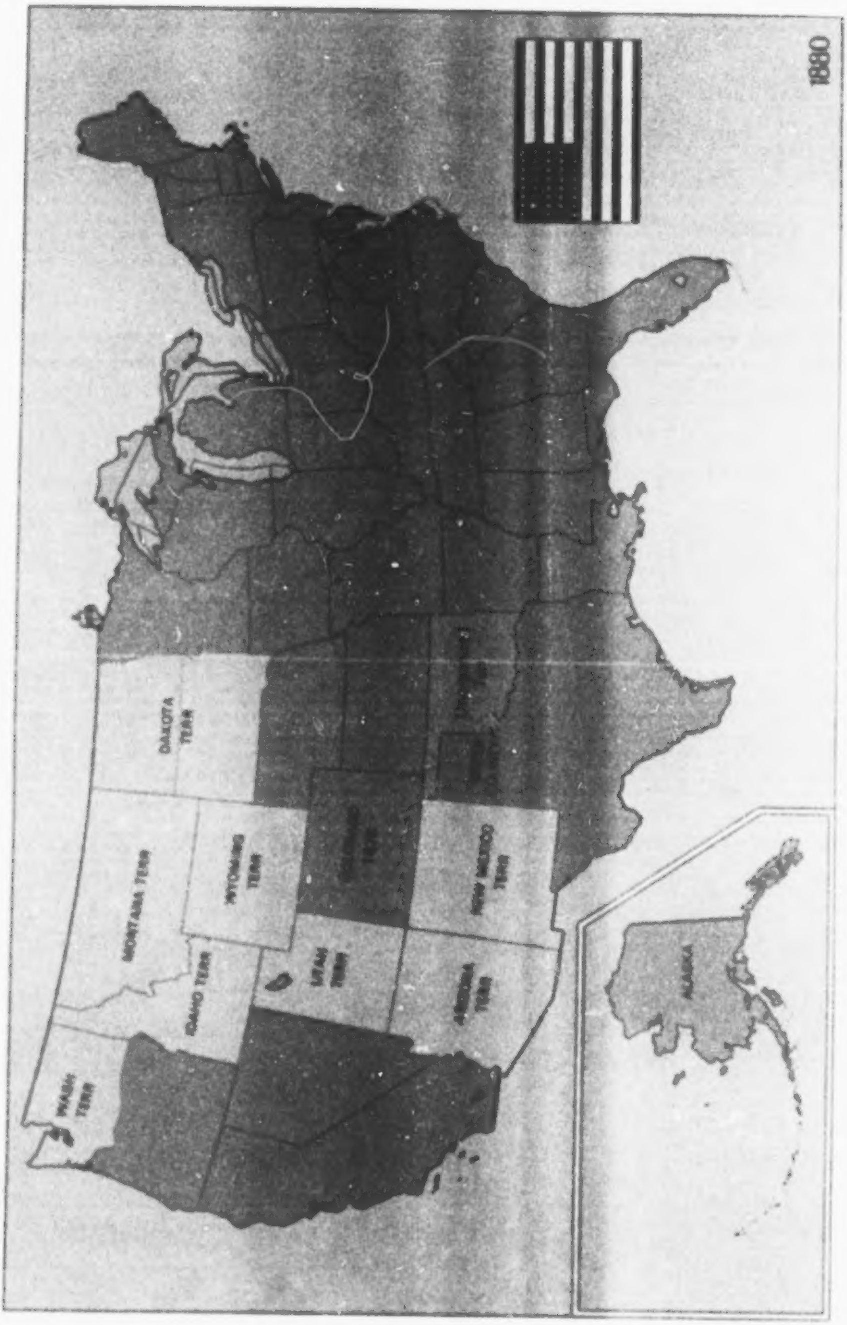

WASHINGTON
TERR
1853
(1859)
NEBRASKA TERR
1854
Unorganized
Terr
UTAH TERR
KANSAS TERR
1854
Unorganized
Terr
NEW MEXICO TERR
(1854)
GADSDEN
PURCHASE
1853

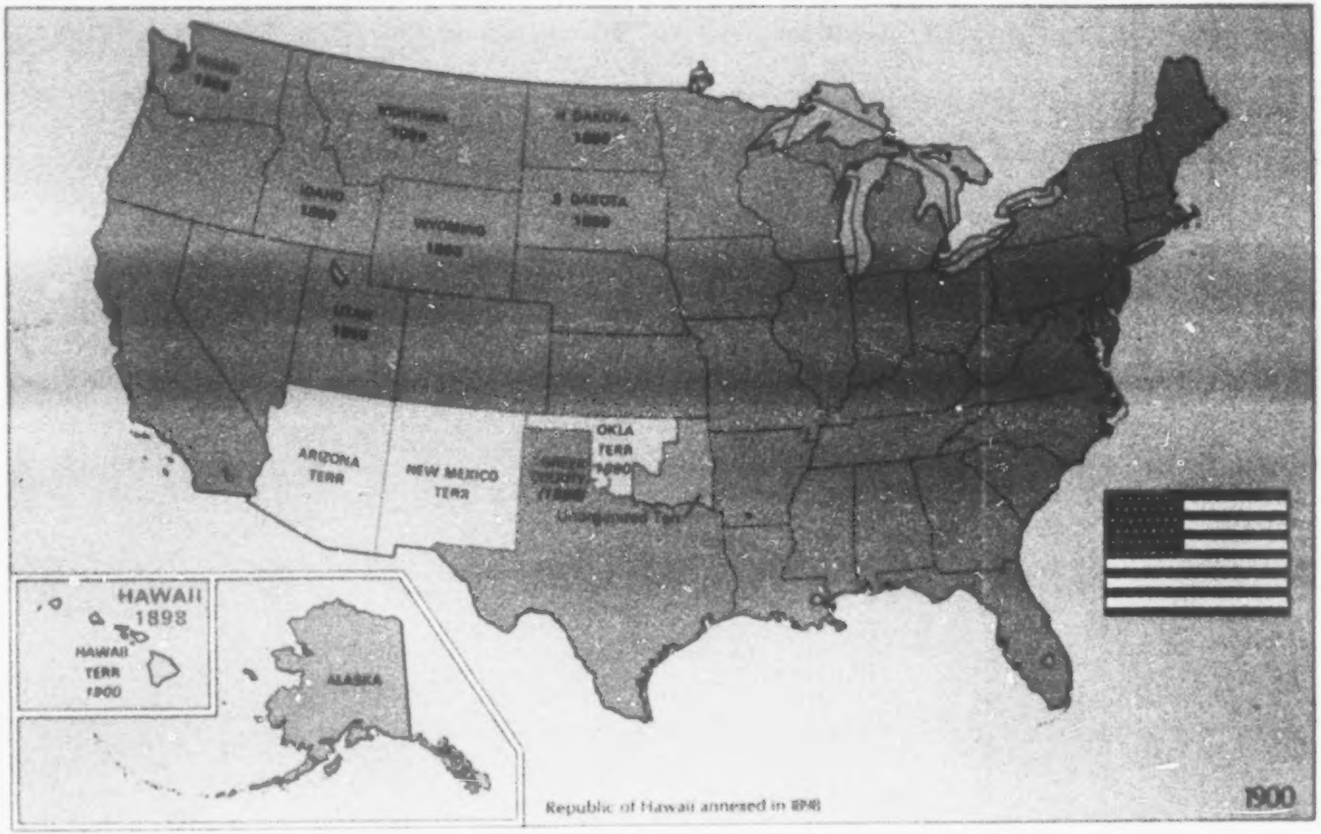
Gadsden Purchase from Mexico

1860

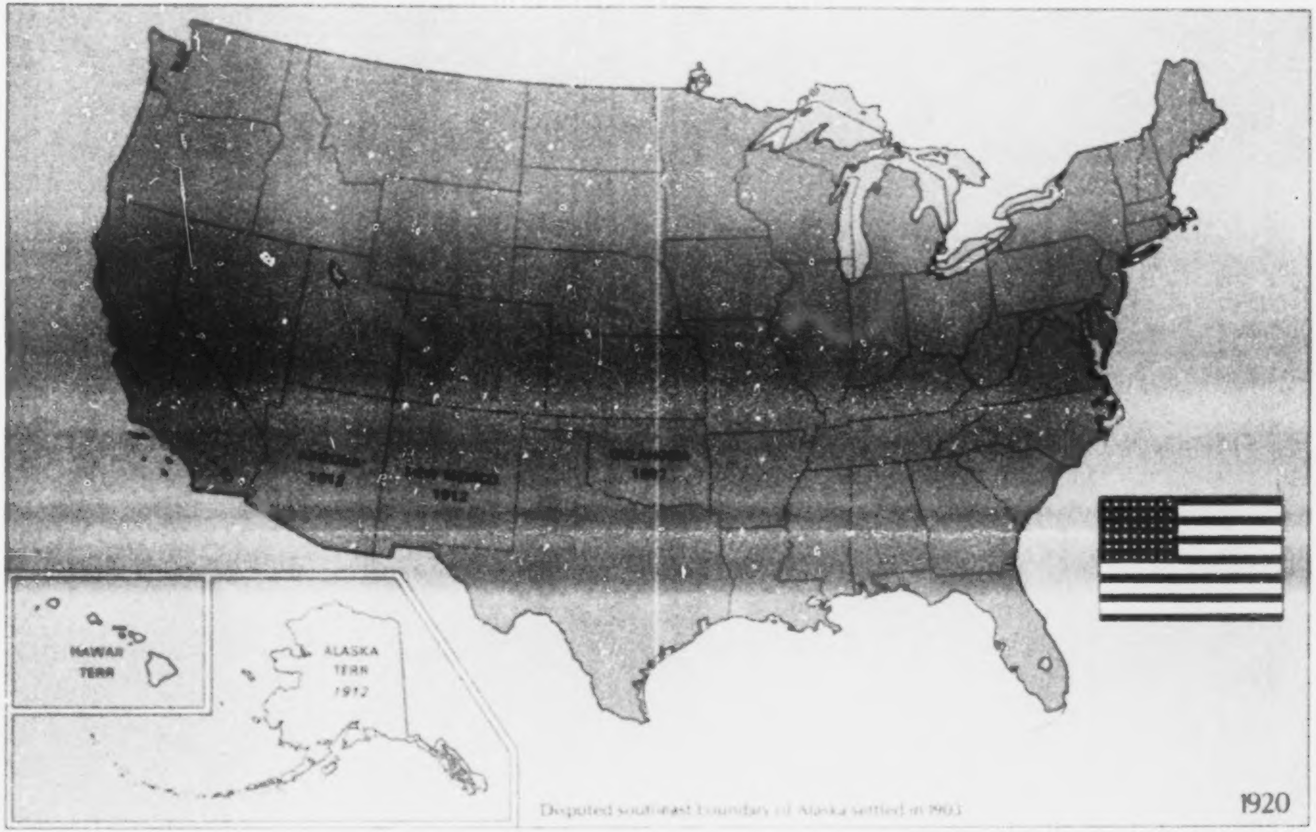

WASH TERR (1853)
MONTANA TERR 1864
DAKOTA TERR 1861 (1868)
IDAHO TERR 1863
WYOMING TERR 1868
UTAH TERR (1850)
COLO TERR 1861
ARIZONA TERR 1863
NEW MEXICO TERR (1850)
ALASKA 1867
1870

Alaska purchased from Russia
Red band encloses Confederate States 1861-1865;
dates underlined refer to readmission to the Union

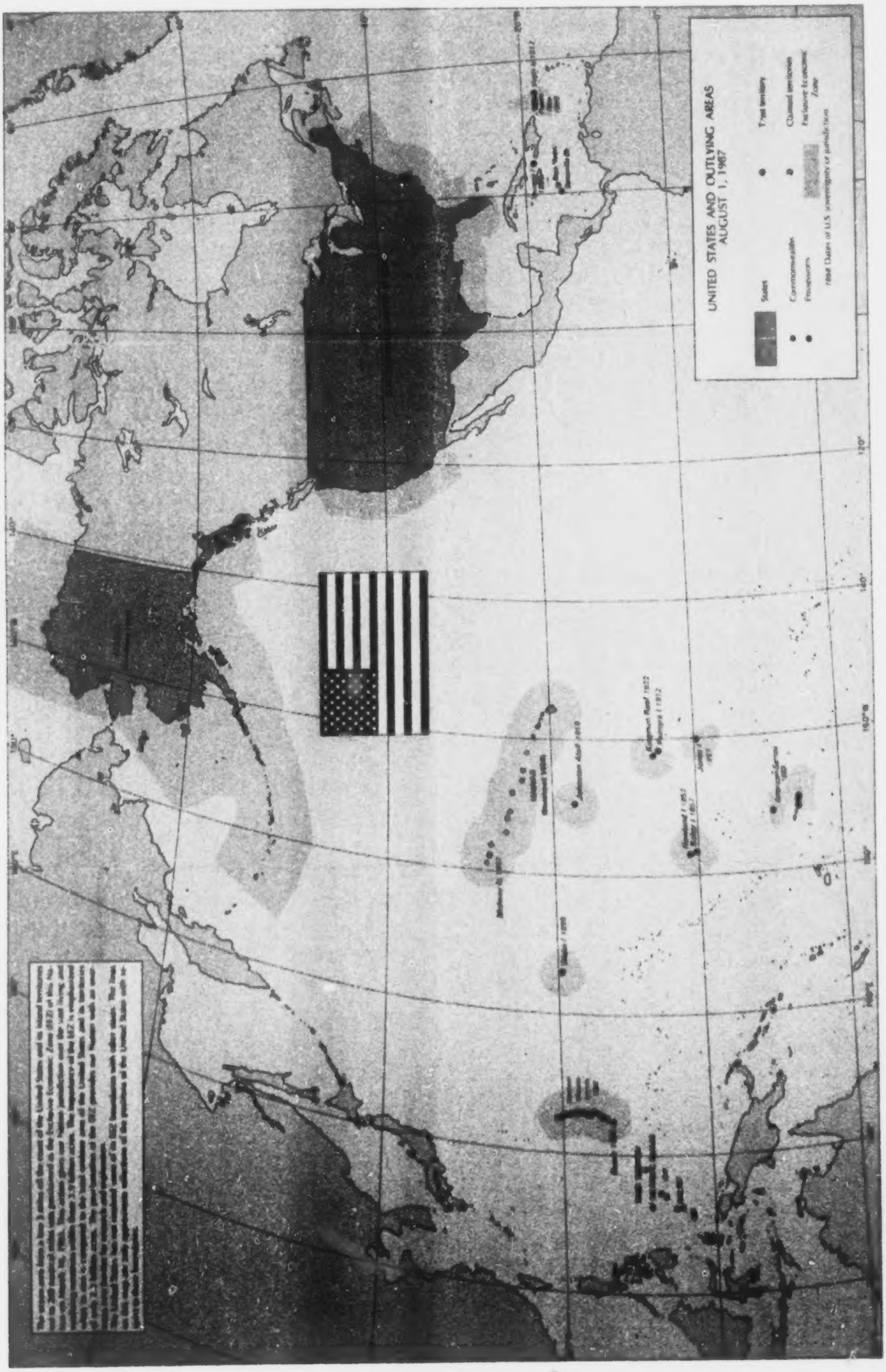

1880
DAKOTA TERR
MONTANA TERR
WYOMING TERR
IDAHO TERR
WASH TERR
UTAH TERR
NEW MEXICO TERR
ARIZONA TERR
ALASKA


WASH
1889
MONTANA
1889
N DAKOTA
1889
IDAHO
1890
S DAKOTA
1889
WYOMING
1890
UTAH
1896
ARIZONA
TERR
NEW MEXICO
TERR
OKLA
TERR
1890
Unorganized Terr
HAWAII
1898
HAWAII
TERR
1900
ALASKA
1900

Republic of Hawaii annexed in 1898


ARIZONA
1912
NEW MEXICO
1912
OKLAHOMA
1907
HAWAII
TERR
ALASKA
TERR
1912
Disputed southeast boundary of Alaska settled in 1903
1920

NATIONAL ATLAS OF THE UNITED STATES OF AMERICA DEPARTMENT OF THE INTERIOR, U.S. GEOLOGICAL SURVEY


UNITED STATES AND OUTLYING AREAS
AUGUST 1, 1987
States
Commonwealths
Possessions
Trust territory
Claimed territories
Exclusive Economic Zone
1898 Dates of U.S. sovereignty or jurisdiction
120°
140°
160°E
180°

CHAPTER FOUR

ALASKA: AN AREA OF CONTINUING COMMITTEE INTEREST

Alaskan Natives (Eskimos, Aleuts, and Alaskan Indians) occupy a unique status among aboriginal peoples in the United States in that the 1867 Treaty of Cession (March 30, 1867, 15 Stat. 539) made a distinction between what the Russians considered "civilized" and "uncivilized" tribes. For the "uncivilized" tribes the Treaty of Cession virtually gave Congress a blank check by providing that such tribes "will be subject to such laws and regulations as the United States may from time to time adopt in regard to the aboriginal tribes of that country." On the other hand, the Treaty provided for the collective naturalization of the so-called "civilized" native tribes in Alaska. Congress, by extending certain laws to Alaska Territory and by passing the Organic Acts of 1884 and 1912, in effect consented to the Treaty obligation to incorporate "civilized" natives as U.S. citizens. The difficulty in defining "civilized" initially caused much uncertainty about the legal status of Alaskan Natives. Nevertheless, for public policy purposes, Alaskan Natives are considered to have the same legal status as Indians as wards under the guardianship of the Federal Government. Among the laws specifically relating to Alaskan Natives are acts pertaining to hunting and fishing rights, reindeer ownership, and the like. In addition, numerous laws relate to the possessory rights of Alaskan Natives in the land used and occupied by them. A number of reservations were also created for Natives by Executive and Congressional action, starting in 1891.

In 1936, the Alaska Reorganization Act (P.L. 74-538, 49 Stat. 1250) extended to Alaskan Natives certain provisions of the Indian Reorganization Act which the IRA itself had not initially made applicable in the territory, but still left Native land rights essentially undefined. So also did the Alaska Statehood Act of 1958 (P.L. 85-508, 72 Stat. 339), under which the new State disclaimed all rights to land *held* by Alaskan Natives (or by the U.S. in trust for them) but not to all lands *claimed* by Alaskan Natives, which amounted to most of the State. However, as the 1982 edition of Felix S. Cohen's Handbook of Federal Indian Law wryly observes, ". . . the resolution of Native claims in Alaska was expedited by pressure from the State and from oil companies wishing to exploit the State's newly discovered petroleum resources."

A number of bills were introduced in the 92nd Congress to settle Alaskan Natives' land claims. The Committee held hearings on several such bills and in September 1971 reported out a bill that, under Committee Chairman Jackson's management, passed the Senate in November. The subsequent Senate-House conference bill passed both houses in December and was signed into law December 18, 1971 as the Alaska Native Claims Settlement Act of 1971 (ANCSA, P.L. 92-203, 85 Stat. 688).

ANCSA, as amended, extinguished Native claims to aboriginal title in Alaska, and in settlement thereof accorded the Natives title to more than 40 million acres in the State, to be divided among some 220 Native village corporations and 12 regional corporations established by the Act to do business for profit. The twelve regional corporations (plus a thirteenth corporation composed of Natives who are non-permanent residents of Alaska) shared in a congressional appropriation of $462.5 million (to be made over an eleven-year period from funds in the U.S. Treasury) and in an additional $500 million in mineral revenues deriving from specified Alaska lands. Natives were issued stock in these villages and regional corporations based on their place of residence or origin, and were restricted in their ability to sell their stock for 20 years after enactment of the Act. ANCSA, however, did not extinguish Alaskan Natives' right to be beneficiaries of Indian legislation.

The Committee has continued in subsequent Congresses to handle many Alaskan Native issues, including amendments to ANCSA, land exchanges, and the problem of submerged lands. Of special interest in recent Congresses is the fact that, under ANCSA, restrictions on the alienability of Native corporation stock issued to Native stockholders would have terminated in 1991. However, the 100th Congress passed, following Committee hearings, the Alaska Native Claims Settlement Act Amendments of 1987 (P.L. 100-241, 101 Stat 1788), which continued the ANCSA alienability restrictions until terminated by the Native corporation in question, and also specified the procedures by which a Native corporation, if it chose, could terminate its alienability restrictions.

ALASKA, THE GREAT LAND

After the purchase of Alaska from Russia in 1867, the territory became known as "Seward's Folly", after William H. Seward, President Andrew Johnson's Secretary of State who negotiated the purchase for $7.2 million. Controversy over the "Great Land" has scarcely died down since, although the focus shifts from time to time.

While Seward, in 1858, hoped that the "political society to be constituted (in Alaska), first as a Territory, and ultimately as a state or many States, will prove a worthy constituency of the Republic", only after the Japanese invasion of the Aleutian Islands in 1942 did Congress turn to Alaskan statehood seriously. The Senate Committee on Interior and Insular Affairs conducted hearings on H.R. 331 in 1950, and reported it to the Senate; there were lengthy debates on bringing the bill before the Senate, but the bill was eventually tabled. In 1951, the Interior Committee again reported a statehood bill (S. 50), but the Senate returned the bill to the Committee, instructing the Committee to consider granting commonwealth status instead. Since the Committee favored Statehood, it took no further action on the issue in the 82nd Congress.

The next several Congresses saw further action by the Committee on statehood, culminating in the 85th Congress. On July 30, 1957, the Committee reported S. 49, and, in 1958, the Senate passed the Alaska Statehood Act by a vote of 64-20. Like other statehood acts, P.L. 85-508 provided for a grant of Federal land to the State, in this case 103.5 million acres (slightly larger than California). Alaska became a State on January 3, 1959.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

As Alaska began to select its land, Native Alaskans (Aleuts, Eskimos, and Indians) protested that they were being denied lands to which they had a prior, aboriginal right. In 1966, the State selection process was frozen by Secretary of the Interior Stewart Udall until these aboriginal claims could be settled. The Senate Interior Committee was a key player in addressing the controversy. This issue was retained by the full committee (rather than being considered by the Committee's Indian Affairs Subcommittee) because of the Committee's experience in Alaska issues, and the important effect the legislation could have on the public lands in Alaska.

The Senate Interior Committee reported S. 35 on October 21, 1971 (S. Rpt. 92-405), and the Senate considered the bill on Nov. 1, 1971. After the Senate passed H.R. 10367 in lieu of S. 35, the Senate conferees (Jackson, Bible, Church, Metcalf, Gravel, Allot, Stevens) met for nine days with their House counterparts. The Senate passed the conference report on December 14, 1971, (S. Conf. Rpt. 92-581, P.L. 92-203). The Alaska Native Claims Settlement Act of 1971 (ANCSA, P.L. 92-203, 85 Stat. 688) extinguished Native claims to aboriginal title, accorded Native Regional and Village Corporations title to over 40 million acres, authorized $462.5 million to be paid to Native Corporations from the U.S. Treasury over 11 years, and $500 million in mineral revenues form specified Alaskan lands. Under Section 17(d)(2), the Act also authorized the Interior Secretary to withdraw up to 80,000,000 acres to be protected in the national interest while Congress made up its mind about establishing new parks, refuges, forests, wildernesses, and wild and scenic rivers.

ALASKA AND THE GEOLOGICAL SURVEY

Early hints of the wealth of petroleum that lay beneath the frozen tundra of the North Slope came from the Alaskan Eskimos who told Russian and American explorers and whalers of black lakes that burned, of oil seeps set afire.

The early stages of exploration for oil on the North Slope were carried out almost entirely by the U.S. Geological Survey, which produced the first report on the area in 1904. President Harding declared 37,000 square miles of the western Alaskan arctic a United States Naval Petroleum Reserve in 1923 and the Geological Survey did further work there from 1923 to 1926.

During the Second World War, when there was grave concern about the security of oil supplies, an intensive exploration effort was mounted in and around the Petroleum Reserve by the Navy with the U.S.G.S. acting as the prime contractor in the work. Between 1944 and 1953, 36 exploratory wells were drilled and a small field at Umiat, on the Colvile River, was found as well as a small gas field at Barrow.

In 1958, the Federal Bureau of Land Management opened a large tract of land for commercial leasing between the Naval Reserve and the Arctic National Wildlife Range. Both the Reserve and the Wildlife Range, which extends to the Canadian border, continued to be off-limits to private enterprise, but the middle territory between the Colvile River on the west and the Canning River on the east was now open for the search for oil. The first Federal North Slope lease sale was held in 1958 and the other Federal sales followed.

The Mineral Leasing Act of 1920 established the modern policies of issuing prospective permits and leases for the development of coal, oil and gas resources of the public lands. In the 95th Congress, the Mineral Leasing Act was amended authorizing the Trans-Alaska oil pipeline.

TRANS-ALASKA PIPELINE SYSTEM

With the Nation facing severe shortages of oil in 1973, the Committee took the lead in clearing obstacles in the path of the planned Trans-Alaska Pipeline System (TAPS). In a series of four hearings held in March and May, the Committee determined that delays in the project were unacceptably increasing U.S. dependence on foreign oil and that environmental damage caused by the pipeline's construction could be sufficiently mitigated.

The 800-mile oil pipeline—needed to bring billions of barrels of North Slope crude to market—had run afoul of the 50-foot maximum right-of-way across Federal lands allowed by the Mineral Leasing Act of 1920 (41 Stat. 449). Certain sections of the project required up to 150 feet, and the Supreme Court in April 1973 upheld a circuit court ruling barring the necessary permits.

On June 12, 1973, the Committee reported a bill (S. 1081), by a 12–0 vote, authorizing the Secretary of the Interior to grant the rights-of-way required by the TAPS project. The Secretary was ordered to promulgate regulations and set conditions on the project to ensure that the pipeline would meet air and water pollution standards, prevent harm to fish and wildlife, protect the environment, and protect public health and safety. In its report, the Committee stressed the need for swift completion of the pipeline:

> Regardless whether the 1969 decision of the owner companies in favor of an all-Alaska route was the wisest or most consistent with the national interest at that time, and regardless whether the administration's early commitment in favor of that route was made on the basis of adequate information and analysis, the Committee determined that the trans-Alaska pipeline is now clearly preferable, because it would be on stream two to six years earlier than a comparable overland pipeline across Canada.

The full Senate added an amendment by Senators Mike Gravel (D–AK) and Ted Stevens (R–AK) to eliminate the possibility of further legal delays in the project by barring further judicial review. After that controversial language was adopted by a one-vote margin, the Senate approved the bill July 27 by a vote of 77–20.

Cleared by Congress November 13, 1973, the Trans-Alaska Pipeline Authorization Act (P.L. 93-153, 87 Stat. 576) required the Secretary of the Interior to issue permits for the trans-Alaska pipeline and prohibited further delays of the project under the National Environmental Policy Act of 1969. Pipeline owners were made liable for all pollution control and cleanup costs involving the pipeline itself, and liability of up to $100 million was established for each spill from tankers carrying oil from the pipeline.

Enactment of the legislation cleared the way for construction to begin, and the $9 billion pipeline was completed four years later. In its more than a decade of successful operation, the pipeline has fulfilled its promise of reducing U.S. dependence on foreign oil while minimizing harm to the fragile Alaskan environment. North Slope crude transported through TAPS now accounts for 22 percent of the Nation's oil production.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

In the 95th Congress, the new Senate Committee on Energy and Natural Resources took up the Alaska lands question: How much of the Federal Government's vast land-holdings in Alaska should be preserved for scenic, recreation, wildlife, and wilderness uses by greatly restricting mining, timber harvesting, and other intensive resource uses. This question lay at the heart of the so-called Alaska lands issue—also called the "D-2" or "national interest" lands—which arose as a result of section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971, and which the Carter Administration believed to provide the Nation's most important remaining land conservation opportunity.

This opportunity existed because most of the 375 million acres that Secretary of State Seward purchased from Russia in 1867 remained in Federal ownership. Although Congress authorized the conveyance of about 148 million acres of Federal land to the State of Alaska and Alaskan natives, about 225 million acres remained in Federal ownership.

On Nov. 6, 1978, Secretary of the Interior Andrus withdrew 110 million acres of Federal land in Alaska "to preserve values that would otherwise be lost" under section 204(e) of the Federal Land Policy and Management Act of 1976 (P.L. 94-579). On Dec. 1, 1978, President Carter used his authorities under the 1906 Antiquities Act (16 U.S.C. 431) to designate 56 million acres of the temporary 3-year withdrawals as permanent new national monuments—full-fledged units of the National Park System. The Committee held eight days of hearings in the 95th Congress (Publication 95-64, Parts 1, 2, and 3), and the staff conducted seven days of workshops in February, 1978 in Anchorage (Publication 95-153, Parts 1 and 2). At least six bills were considered in these hearings. After considering the legislation in 44 business meetings, the Committee reported H.R. 39 (S. Rpt. 95-1300) on October 9, 1978. However, the bill was not taken up by the full Senate.

In the 96th Congress, the Committee again devoted considerable attention to the unresolved Alaska lands issue. The focus was a House-passed bill (again numbered H.R. 39). The Committee devoted nine days between October 10 and 29, 1979, to the mark-up of this bill, and reported it on November 14, 1979, (S. Rpt. 96–413). The Committee, and its Chairman, Senator Henry M. Jackson, faced an extremely complex and divisive floor situation. At least six major amendments had been proposed, and debate promised to be protracted. A time agreement was reached, permitting Senators Jackson (D-WA), Mike Gravel (D-AK), and Ted Stevens (R-AK) three amendments each, and Senator Paul Tsongas (D-MA) five. On May 1, 1980, these Senators exchanged their proposed amendments. Shortly after the Senate began consideration on July 21, 1980, the strength of the conservationist vote and the level of emotion reached on the Senate floor suggested that a compromise might be more productive than continued floor debate. A compromise measure, termed the Tsongas-Jackson-Hatfield (all but Roth were Members of the Committee) substitute, was developed and on August 18, cloture motions were filed. The Senate adopted the substitute on August 19.

The upcoming Presidential election left supporters in a bind: the time required for a conference committee would likely doom passage of any bill While the House initially explored other strategies, the November 4 election of President Reagan, a Republican Senate, and a more conservative House, caused the House to accept the Senate version of H.R. 39. The Alaska National Interest Lands Act (ANILCA) of 1980 was signed into law by President Jimmy Carter on Dec. 2, 1980 (P.L. 96–487, 94 Stat. 2371).

As enacted into law, H.R. 39 placed 104.1 million acres of Federal land into various conservation units. The measure added approximately 43.5 million acres to the National Park System as national parks and preserves; increased the National Wildlife Refuge System by approximately 54 million acres; designated 25 wild and scenic rivers and 12 more for study; created 2 national forests monuments in southeast Alaska—Misty Fjords and Admiralty Island; and designated some 56 million acres of wilderness within the National Park, Refuge and Forest Systems.

Among the provisions in the Act was a requirement in Section 1002 that the Department of the Interior study part of the coastal plain of the Arctic National Wildlife Refuge, including its very rich fauna, flora, and petroleum potential, and recommend whether the area should be developed for oil and gas. Section 1003 stipulated that the area was closed to development unless or until Congress acted to open it: the stage was set for the next round of Committee attention to Alaska.

ARCTIC NATIONAL WILDLIFE REFUGE

The final Legislative Environmental Impact Statement required under Section 1002 of ANILCA was released by the Department of the Interior on April 20, 1987. The report recommended that the entire area be opened for leasing. Six bills relating directly or indirectly to the "1002 area" were referred to the Committee during the 100th Congress. The Committee reported Chairman J. Bennett Johnston's bill, S. 2214, to authorize energy leasing on the coastal plain, allocated any resulting revenues, and develop a national energy plan (S. Rpt. 100–308). On March 18, 1988, the Committee also reported H.R. 2629, a bill which amended ANILCA to clarify the conveyance and ownership of submerged lands and to forbid the transfer of subsurface rights in ANWR without congressional approval (S. Rpt. 100-302). The latter aspect of the bill was controversial within the Committee since an exchange of certain subsurface rights in ANWR for Native inholdings in other Alaskan National Wildlife Refuges enjoyed substantial support from the Alaska delegation, but was opposed by many other Members. The bill passed the Senate on July 14, 1988, and was signed by the President on August 16, 1988, (P.L. 100-395). The larger issue of the fate of the coastal plain was left to the Committee in a future Congress.

CHAPTER FIVE

INDIAN AFFAIRS

JURISDICTION OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

> Congressional authority over Indian affairs is derived from the Constitution, which assigns to Congress power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes" (Art. 1. sec. 3.) During the early Congresses, Indian matters were considered either by the whole Senate or House, by Select committees appointed for that purpose, or by various other committees.
>
> In January 1820, the Senate established a Standing Committee on Indian Affairs having jurisdiction over Indian affairs legislation. This was followed in December 1821 by establishment of a Standing Committee on Indian Affairs in the House of Representatives as well. Throughout the nineteenth century and into the twentieth, there existed other standing committees in the Senate, and select committees in both Houses, that had jurisidiction over various aspects of Indian affairs.
>
> In 1921 all existing standing Senate committees dealing with Indian legislation were consolidated with the existing Committee on Indian Affairs.

Under the Legislative Reorganization Act of 1946, the former Committee on Indian Affairs which had been created in 1820, was placed under the jurisdiction of the new Committee on Interior and Insular Affairs. The Committee's jurisdiction embraced the historical-legal basis underlying the unique relationship maintained by Indian Tribes with the United States Government, and the full range of benefits deriving from that relationship: (1) trustee protection of Indian lands and other natural resources, and (2) provision of elected socio-economic services to Indians solely on the basis of their status as Indians.

The Subcommittee on Indian Affairs had responsibility for legislation affecting the relations between the Federal Government and the almost 800,000 American Indians, Eskimos, and Aleuts. This responsibility include legislation affecting Indians on reservations as well as Indians in the United States as a whole.

After adoption of the original jurisdiction, both the Legislative and Executive Branches of Government demonstrated a greater awareness of the need for a more constructive national Indian policy to fulfill the nation's moral and legal commitments to Indian people and to improve the general well-being of this segment of the population. Additionally, the Indian people through their leaders and organizations pressed for a greater voice and participation in the programs and services authorized for their benefit.

Early in the 95th Congress the American Indian Policy Review Commission submitted its mandated report to both Houses of Congress. This report covered all major facets of Indian Affairs and held potential for sweeping legislative reforms in the Indian Field.

Committee oversight function ended at the beginning of the 95th Congress in 1977 following approval of S. Res. 4, the Committee System Reorganization Act, wherein jurisdiction of Indian Affairs was removed from the newly created Committee on Energy and Natural Resources, and a Select Committee on Indian Affairs was established.

DEVELOPMENT OF INDIAN POLICY

The history of relations between the Indians and the United States since the beginning of Congress may be seen as a series of policy attitudes carried out in successive stages but sometimes overlapping. This section is divided into the following roughly chronological categories: (1) early treatymaking, trade, and land cessions, including establishment of the administrative structure for Indian policy; (2) mass removal across the Mississippi; (3) later treatymaking and establishment of the reservation system; (4) allotment and assimilation; (5) reform and reorganization; (6) termination; and (7) self-determination.

It must be emphasized that, while various policies have prevailed at different times in the history of Indian-U.S. relations, no single policy has ever exclusively prevailed. S. Lyman Tyler's history of U.S. Indian policy observes that:

> Actually discussion of assimilation, removal, allotment, the establishment of reservations . . . has occurred intermittently throughout the history of the relations between the United States and the Indian tribes. One proposition might be stressed more strongly in a given period than another, or might be thought of as policy for a time, but the existence of the other facets of Indian relations continued and were brought back into use from time to time.

Early Treatymaking, Trade, and Land Cessions (1789–1830)

The Continental Congress in 1778 signed a treaty with the Delaware Indians, thereby establishing treaties as the primary legal basis for Federal policies toward the American Indian. Between 1778 and 1871 (when Congress prohibited further treatymaking), the Senate ratified 370 treaties with Indian tribes.

Of these treaties, 271 were ratified from 1820 on, during the Committee's jurisdiction over Indian affairs.

Most treaties signed during the period before 1830 were with tribes east of the Mississippi River. Most were for the purposes of maintaining peace and defining boundaries, and almost all involved land cessions by the Indians. By 1830 the Indians had ceded much of the Northwest Territory and of what would become Missouri and Arkansas, and large areas of the South as well.

With passage of the Act of Aug. 7, 1789 (1 Stat. 49) Congress placed the administration of all matters pertaining to Indians under the aegis of the Department of War and under the Act of Aug. 20, 1789 (1 Stat. 54) appropriated funds for "negotiating and treating with the Indian tribes." Passage of the 1790 trade and Inercourse Act (Act of July 22, 1790, 1 Stat. 137), the first such act "to regulate trade and intercourse with the Indian tribes," followed soon after. This Act was a temporary one; it was renewed with modifications for twelve years, when the permanent Trade and Intercourse Act of 1802 (Act of March 30, 1802, 2 Stat. 139), the first of several such statutes, was passed.

Because trading was an important aspect of Federal Indian policy during this period, the Government maintained trading houses from 1796 to 1822. The function of these government trading houses was to supply the Indians with necessary goods at a fair price and to offer a fair price in return for Indian furs; it was hoped thereby to control white contact with the tribes and to drive British and Spanish traders out by underselling them. To administer the trading houses, the Act of April 21, 1806 (2 Stat. 402) established the Office of Superintendent of Indian Trade in the War Department.

In 1822, after the Indian Affairs Committee's creation, both the trading houses and the Superintendency of Indian Trade were abolished by the Act of May 6, 1822 (3 Stat. 679). The War Department still retained the responsibility to administer Indian affairs, and, when no new office for Indian affairs was created by Congress, Secretary of War John C. Calhoun established the Bureau of Indian Affairs (often called the Office of Indian Affairs) within the Department by his order of March 11, 1824.

Mass Removal Across the Mississippi (1830—ca. 1850)

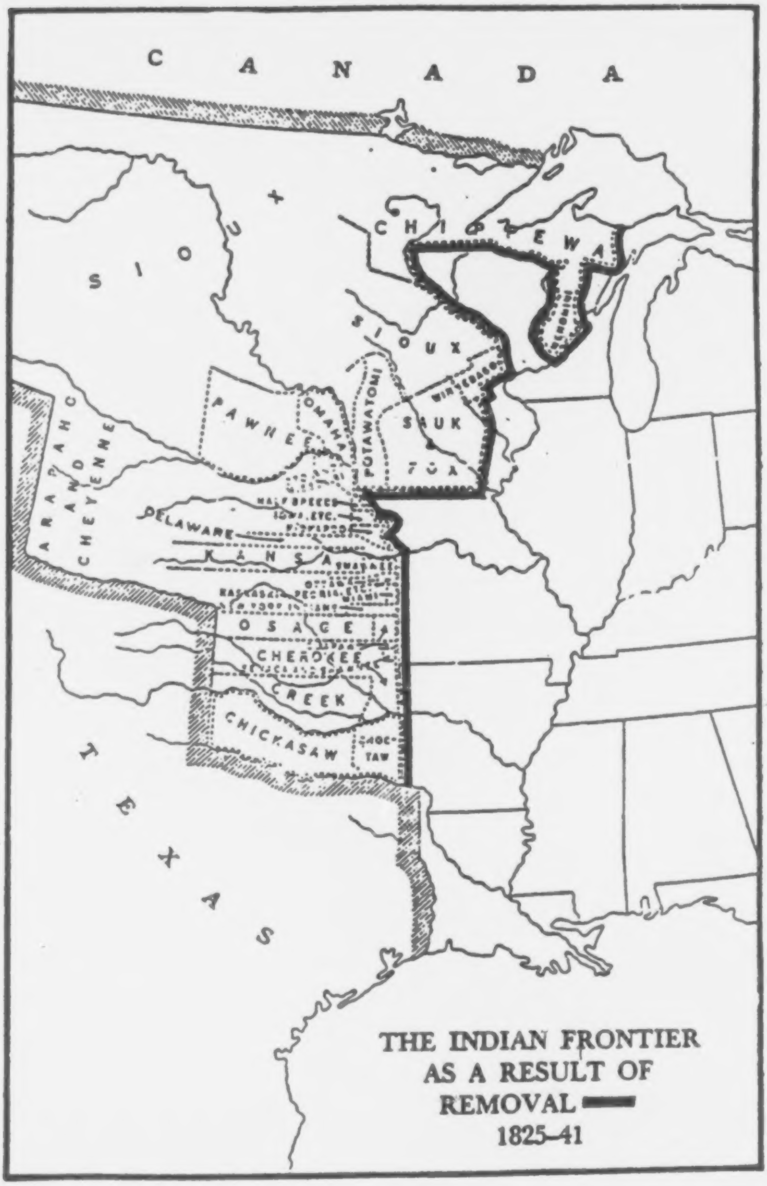
The idea of removing all Indians east of the Mississippi to unorganized territory west of the Mississippi had been under discussion for many years after the Louisiana Purchase, and had even been put into practice by some treaties. It became Government policy under President Andrew Jackson. The most important act of Congress reflecting the removal policy was the 1830 Indian Removal Act (4 Stat. 411). This Act established in general terms the policy of exchanging Federal lands west of the Mississippi for an Indian tribe's lands east of the Mississippi. In a 1957 article in the Annals of the American Academy of Political and Social Science, D'Arcy McNickle observed that:

> The Removal Act of 1830 was a discretionary act, authorizing the President (not directing him) to negotiate treaties with the eastern Indians, the treaties to provide the following: lands would be offered west of the Mississippi; payment would be made for lands and improvements relinquished in the east; title to the new lands would be guranteed in perpetuity, or so long as the tribe should exist; the right of self-government would be respected. . . .

When first proposed in Congress, the Act generated much opposition. The bill, in its Senate version, was adopted only after a bitter two-month debate in both houses and only by a small margin in each house.

Among the tribes removed to Indian Territory from their homes in the east were the southeastern tribes later known as the Five Civilized Tribes—Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles—as well as Delawares, Kickapoos, Quapaws, Winnebagos, Sacs and Foxes, Ottawas, Potawatomies, Otoes and Missourias, Pawnees, Menominees, Miamis, Wyandots (Hurons), Ioways, Yankton Sioux, Sioux, and Osage. The process of removal took well into the decade of the 1840s (for a map showing the Indian frontier as a result of removal, see Figure [Indians-1]). The Removal Act required that Indians could be removed only by a treaty to which they had agreed, so most of the 102 treaties the Senate ratified in the period 1830–1850 were related to the removal process.

FIGURE [Indians - 1]


CANADA
SIOUX
CHIPPEWA
SIOUX
WINNEBAGO
SAUK & FOX
POTAWATOMI
OMAHA
PAWNEE
ARAPAHO AND CHEYENNE
HALF BREEDS
IOWA, ETC.
DELAWARE
KANSA
OSAGE
CHEROKEE
CREEK
CHICKASAW
CHOC-TAW
TEXAS

THE INDIAN FRONTIER AS A RESULT OF REMOVAL ▬ 1825–41

Reproduced from: S. Lyman Tyler. A History of Indian Policy. Washington, U.S. Department of the Interior, Bureau of Indian Affairs, 1973. Page 60.

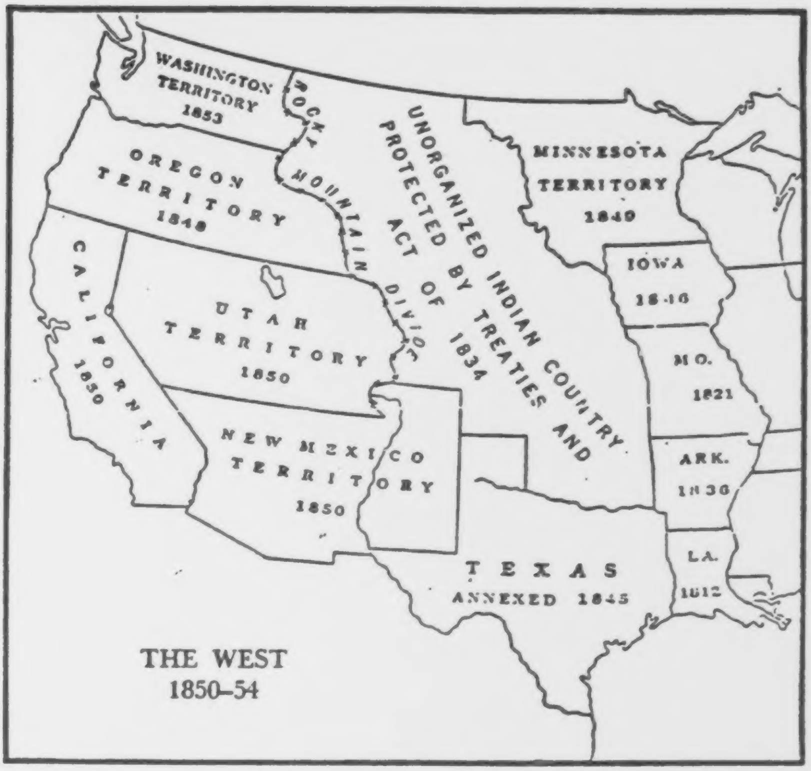
On June 30, 1834, Congress approved two pieces of legislation that together formed the basis of future government dealings with Indian tribes. One of these, the Indian Trade and Intercourse Act of 1834 (4 Stat. 729), was the last of the acts regulating "trade and intecourse with the Indian tribes." The other, the Act of June 30, 1834 (4 Stat. 735), provided for the organization of the Department of Indian Affairs within the Department of War, formalizing the executive action Secretary Calhoun had taken ten years earlier.

Although the Acts were designed to implement laws and treaties of the time, Tyler, in his history of U.S. Indian policy, noted that their effect was to establish future Indian policy in a number of ways:

> They incorporate provisions from earlier laws with amendments that broadly express the power the Constitution bestows on the Congress to deal with Indian tribes. They define Indian country, prescribe methods of making contracts with Indians, and empower the Commissioner to appoint traders and to regulate the kind, quantity and prices of trade goods to be sold to the Indians with whom they trade. They provide that interests in Indian lands, by lease or purchase, can be acquired only by treaty or other agreement formalized under the direction of duly constituted authorities as described therein. Penalties are provided for trespassers on Indian holdings.

The definition of Indian territory was changed by events at the end of this period. In 1845 Texas was annexed, in 1846 the U.S. acquired full title to the Oregon country, and in 1848 the U.S. acquired California and the New Mexico territory. These acquisitions were soon organized as territories, beyond what had been considered Indian territory (see Figure [Indians-2]). The policy of removing Indians to the general area of "the West", an area defined only at its eastern edge, could no longer operate.

FIGURE [Indians - 2]


WASHINGTON TERRITORY 1853
OREGON TERRITORY 1848
ROCKY MOUNTAIN DIVIDE
UNORGANIZED INDIAN COUNTRY PROTECTED BY TREATIES AND ACT OF 1834
MINNESOTA TERRITORY 1849
IOWA 1846
MO. 1821
ARK. 1836
LA. 1812
CALIFORNIA 1850
UTAH TERRITORY 1850
NEW MEXICO TERRITORY 1850
TEXAS ANNEXED 1845
THE WEST 1850–54

Reproduced from: S. Lyman Tyler. A History of Indian Policy. Washington, U.S. Department of the Interior, Bureau of Indian Affairs, 1973. Page 71.

Later Treatymaking and Establishment of Reservation System (ca. 1850–1887)

After 1850 the general removal policy gave way to one placing Indians on specific "reservations". Indian territory was being restricted on the West even as it was being pressured on the East. In his history of U.S. Indian policy, A.W. Hoopes observed that:

> The old "permanent Indian frontier" broke down before the westward march of our population. The Indian Country was organized as the territories of Kansas and Nebraska. With their organization the old policy of maintaining a large, unorganized, and "permanent" Indian Country came to an end. But a new policy was at hand. The system of establishing reservations, of relatively small geographical extent, in the midst of the white man's country, had been tried in California. From there it spread ultimately over the entire country.

Actually the concept of Indian reservations had been tried as early as the Seventeenth Century in New England. S. Lyman Tyler notes further:

> The new reservation policy after 1850 would again see the Indians placed on isolated lands entirely surrounded by other lands controlled by private landholders, by the States and territories, or by the United States. Within these reservations, legally, the tribes continued to be self-governing bodies.

Treatymaking and military action were the vehicles used to gain Indian agreement to land cessions and to their restriction on reservations. From 1853 to 1856, 52 treaties were negotiated, more than in any other like period. Some 174 million acres of land were acquired from the tribes by the United States as a result of these treaties. A majority of these treaties were with Indians in the Pacific Northwest; in a second spurt of treatymaking, from 1865 to 1868, after the Civil War, another 38 treaties were ratified, mostly with Indians of the Plains and the Great Basin.

The Senate's exclusive role in treatymaking was ended in 1871, when Congress prohibited further treatymaking by means of a proviso attached to an Indian appropriations law (Act of March 3, 1871, 16 Stat. 566). After 1871, agreements with Indian tribes were made by Acts of Congress, Executive orders, and Executive agreements. Over 100 of these agreements were made with Indians by 1914; they carried the same rights and responsibilities as treaties, and most were ratified by both houses of Congress.

The end of treatymaking had been indirectly caused by the establishment of Indian reservations surrounded by white-occupied lands. Tensions had inevitably resulted, and the problem became so severe that Congress, in the Act of July 20, 1867 (15 Stat. 17), established an "Indian Peace Commission" to determine the reasons for hostile acts by Indians and to make treaties to remove the causes of complaint. Tyler recalls that in Congress:

> The treaties negotiated by the Indian Peace Commission were ratified by the Senate but were not acceptable to the

> House of Representatives, because that body was not given an opportunity to express its views until the appropriation bills were submitted sometime later. It was the negative reaction of the House to this process in reference to treaties with Indians, and to the administration of Indian affairs generally, that brought an end to such treaty making in 1871.

Having confined Indians on reservations, Congress now moved to deal with reservation law and order. Congress authorized in 1878 the establishment of Indian Police and in 1885 passed the Indian Major Crimes Act (Act of March 3, 1885, 23 Stat. 362), which gave Federal courts jurisdiction over certain crimes committed on reservations, including murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny.

Allotment and Assimilation (1887–ca. 1925)

One Indian policy continually discussed and advocated throughout Federal relations with Indians was the policy of "assimilation", whereby the Government attempted to minimize traditional tribal life and to encourage Indians to pursue farming, or other "civilized" employment, as a means of livelihood. When the Indians, even after most were on reservations, still failed to embrace this option, it was felt that the communal ways of the tribe were obstructing assimilation. Reformers felt that individual ownership of a farm would release Indians from communal tribal life and lead more swiftly to successful assimilation.

The General Allotment Act of 1887 (24 Stat. 388), also known as the Dawes Severalty Act for its sponsor, Senate Indian Affairs Committee Chairman Henry L. Dawes (R., MA), authorized the individual allotment of reservation lands to tribal members, and also conveyed citizenship either to the allottee upon termination of the trust status of his land or to any Indian who voluntarily established residence apart from his tribe and adopted "the habits of civilized life." According to provisions of the General Allotment Act, the head of the Indian household was to be allotted 80 acres of agricultural land or 160 acres of grazing land. A single person over 18 or an orphan under 18 was to receive half this amount. The Federal Government was to retain title to allotted lands until a trust period of 25 years had expired, or longer, in the President's discretion. After the period, the allottee was to receive a patent in fee, was deemed competent to dispose of the land as he saw fit, and became subject to the laws of the State or territory in which he lived. Equally important, the Act authorized the Secretary of the Interior to negotiate with tribes to purchase the remaining unallotted portions of the reservation for the Federal Government, to be opened for non-Indian settlement as Congress saw fit. The General Allotment Act initially did not apply to some tribes, but most of these were later brought under its provisions or under those of similar statutes.

During this period of allotment and assimilation, Congress also passed a number of special allotment acts, which applied only to one or a few Indian reservations. Like the General Allotment Act, these special allotment acts involved the allotment of reservation lands in severalty (i.e., to individuals) and the cession of "surplus" reservation land to the Government. The Indian Affairs Committee held a number of hearings on special allotment acts during this period.

The result of the allotment policy was a drastic reduction in Indian-held lands. By 1933, 91 million acres or two-thirds of the Indian land base of 1887 had been lost. Much of this land loss occurred by the end of the century: total Indian landholdings in the United States were reduced from 155,632,312 acres in 1881 to 77,865,373 in 1990. (As of September 1984 there were 55,446,215 acres of Indian trust lands under the jurisdiction of the Bureau of Indian Affairs.)

Allotment and assimilation continued to be the basic Federal policy toward the Indians. Thus, the allotment policy was extended to the Five Civilized Tribes in Indian Territory (Oklahoma) through the so-called "Dawes Commission," appointed by the President in conformity with the Act of March 3, 1893 (27 Stat. 612), and the Curtis Act of 1898 (Act of June 28, 1898, 30 Stat. 495). The Curtis Act further affected Indian Territory by providing for the incorporation of towns, abolition of tribal laws and courts, and enlargement of the powers of U.S. courts there. In the Indian appropriation act for 1905 (Act of April 21, 1904, 33 Stat. 204), Congress removed restrictions from much of the allotted lands held by the Five Civilized Tribes, thus opening the door to alienation of Indian land.[1] These and other pieces of legislation effectively curtailed the tribal system of the five tribes—Cherokee, Choctaw, Chickasaw, Creek, and Seminole.

In 1906, Congress passed the Burke Act (Act of May 8, 1906, 34 Stat. 182), which amended the General Allotment Act by giving the Secretary of the Interior discretion to shorten the 25-year trust period on allotted lands by declaring the owner to be competent to dispose of his land as he wished. The likewise was an extension of the policy of assimilation, by which Indian lands were alienated from Indian ownership and Indian tribal life weakened.

Citizenship was seen by assimilationists as a major component of their policy. In their recent study, *Native Americans in the Twentieth Century,* James S. Olson and Raymond Wilson observe that:

> Citizenship increased rapidly after the 1887 Dawes Act [and] the 1888 decision by Congress to extend citizenship to all Native Americans who married American citizens. . . . In 1901 Congress awarded citizenship to another 101,506 Native Americans in Indian Territory, and by 1905 more than half of all Native Americans had become citizens of the United States.

Congress in 1924 passed the Citizenship Act (P.L. 68–175, 43 Stat. 253) which granted citizneship to non-citizen Indians born within the territorial limits of the United States. By that time about two-thirds of the Indians were already citizens. This act was a continuation of the assimiltion policy, but it may also be seen as a partial abandonment of that policy, since the act ended the Dawes Act requirement that an Indian must leave the tribe and adopt the "habits of civilized life" as one means of gaining citizenship.

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[1] Lawrence F. Schmeckebier. The Office of Indian Affairs: Its History, Activities and Organization. Baltimore, Johns Hopkins Press, 1927, p. 135.

In 1921, Congress changed the way it appropriated funds for Indians. The Snyder Act of 1921 (P.L. 67-85, 42 Stat. 208) provided broad authorization for Bureau of Indian Affairs expenditures for Indians, and ended a situation where more specific appropriations requests for Indians were often killed on the House floor by point-of-order objections.

Reform and Reorganization (ca. 1925–1943)

In the early and mid-1920s there occurred a period of debate over the need for reform of Indian policy. It culminated in 1928 in the publication of two important documents: the so-called Meriam Report, conducted by the Institute for Government Research (later The Brookings Institution) and submitted to the Secretary of the Interior in 1928; and the so-called Preston-Engle Irrigation Report, also completed in 1928 and submitted to the Senate Indian Affairs Committee.

Theodore Haas has summarized the impact of the Meriam Report on the Indian policy reform movement of the 1920s and 1930s:

> The report . . . helped to inaugurate a new era in Indian administration. On December 4, 1929, President Herbert Hoover took steps to implement the report by stating in his first message to Congress that the government had an obligation to raise the standard of living of Indians, to provide adequately for their health and education and to advance their opportunity for profitable employment. There soon followed a substantial increase in appropriations for the Indian Bureau.

In addition, the Senate resolution of Feb. 2, 1928 (S. Res. 79) provided for the Indian Affairs Committee to conduct an exhaustive survey of conditions prevalent among the Indians. An Indian Affairs subcommittee held its first hearings under the resolution in Yakima, Washington, and Klamath Falls, Oregon, in November 1928. Over the next 15 years the Committee held hearings all over the country, concluding in August 1943. The results were published in 41 parts, with a supplemental report made on May 2, 1944.[2]

The reform movement led to passage of a number of major Indian policy acts, including the Indian Reorganizatin Act of 1934 (IRA, P.L. 73-383, 48 Stat. 984), also known as the Wheeler-Howard Act; the Johnson-O'Malley Act of 1934 (P.L. 73-167, 48 Stat. 596); the Oklahoma Indian Welfare Act of 1936 (P.L. 74-816, 49 Stat. 1967), also known as the Thomas-Rogers Act; and the Alaska Reorganization Act of 1936 (P.L. 74-538, 49 Stat. 1250).

The Indian Reorganization Act was co-sponsored by Sen. Burton K. Wheeler (D., MT), then chairman of the Indian Affairs Committee. The Act laid the foundation for a new policy toward Indians, much of which is still in effect. Perhaps most significantly, it officially rendered the General Allotment Act of 1887 obsolete by prohibiting further allotment of Indian lands to individuals, while also providing a means for consolidating reservation life and developing tribal government. To achieve this end, tribes were given the options of establishing a tribal government under a written constitution, incorporating to conduct business by means of a charter, or both.

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[2] U.S. Congress. Senate. Committee on Indian Affairs. Survey of Conditions of the Indian in the United States. Hearings, 70th Cong. to 78th Cong. Washington, U.S. Govt. Print. Off., 1928–1943; and U.S. Congress. Senate. Committee on Indian Affairs. Survey of Conditions Among Indians in the United States. Supplemental Report No. 210, 78th Cong., 2nd Sess., May 2, 1944. Washington, U.S. Govt. Print. Off., 1944.

In addition, the IRA extended indefinitely existing trust periods and restrictions on alienability of Indian lands, thereby halting the termination after a period of years of the traust and restricted status of such lands. The Act sought to augment the tribal land base by a variety of provisions. It authorized an annual $2 million appropriation for acquisition of lands by the Secretary of the Interior for tribes; directed the Secretary of the Interior to issue conservation regulations to prevent erosion, deforestation, and overgrazing on Indian lands; authorized establishment of a revolving credit fund to promote reservation economic development; authorized annual appropirations not to exceed $250,000 for education loans; and provided that qualified Indians be accorded employment preference in the Bureau of Indian Affairs.

The Johnson-O'Malley Act (as amended in 1936, P.L. 73-167, 48 Stat. 596) provided for Federal-State cooperation in Indian affairs—most significantly in education—by means of Federal contracts with State governments, or political subdivisions thereof, for the operation of Federal Indian programs. The Oklahoma Indian Welfare Act led to the reorganization of many Oklahoma tribes and the restoration of their Indian identity (Oklahoma had not been covered by much of the IRA). This Act was co-sponsored by Sen. Elmer Thomas (D., OK), Chairman of the Indian Affairs Committee. The Alaska Reorganization Act entended to the Territory of Alaska certain provisions of the IRA which the IRA itself had not initially made applicable in the territory.

Congress also established in this period the Indian Arts and Crafts Board, by means of the Act of Aug. 27, 1935 (P.L. 74-355, 49 Stat. 891). The Board was composed of five Commissioners appointed by the Secretary of the Interior, and its main function was to promote the economic welfare of Indians by the development of native arts and crafts.

Termination (1943–ca. 1965)

By the conclusion of the Indian Affairs Committee's long investigation of Indian issues (1928–1944), its findings were an expression both of dissatisfaction with the Indian Reorganization Act and the Bureau of Indian Affairs, and of sentiment against prolongation of the "special status" of Indians. These feelings were echoed by the findings of a House investigation of Indian affairs authorized in 1944. Morever, a report later in the decade by the Hoover Commission on the executive branch stated that "a program for the Indian people must include progressive measures for their complete integration into the mass of the population." [3]

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[3] U.S. Commission on Organization of the Executive Branch of the Government. Social Security, Education and Indian Affairs. Washington, U.S. Govt. Print. Off., 1949, p. 65.

These reports presaged the decline of the reform policy, with its impetus against rapid assimilation, and the rise of what came to be called the termination policy. The termination policy meant, minimally, ending a tribe's federally recognized status as an Indian tribe. The policy has been characterized in the 1982 edition of Felix S. Cohen's Handbook of Federal Indian Law as:

> An experiment imposed on a small number of tribes that ended, in virtually all respects, the special relationship between these tribes and the Federal government. The assimilationist policies of the era, however, had much broader implications. Those tribes not directly terminated were subjected to a series of laws transferring important areas of responsibility from the Bureau of Indian Affairs [BIA] to other Federal agencies and to the states. Large amounts of Indian land were allowed to pass into non-Indian hands once more. In addition, tribal economic development was largely ignored and Indians were encouraged to seek employment off the reservation.

Early in this period, in 1946, Congress passed the Indian Claims Commission Act (P.L. 79-726, 60 Stat. 1049), which established a special commission before which claims for monetary compensation could be filed by Indian tribes who felt that they had received unfair treatment in past land transactions with the Federal Government. The Commission was authorized to grant only monetary, not land, compensation, and could hear only those claims filed before August 13, 1951, and which had accrued prior to enactment of the Indian Claims Commission Act. Claims arising after the date of enactment of this Act were placed under the jurisdiction of the U.S. Court of Claims.

Settlement of Indian claims was seen both by reformers and by supporters of termination as a prerequisite to their policies. Originally it was anticipated that all such claims could be processed within ten years, but the life of the Commission repeatedly had to be extended by Congress owing to the volume and magnitude of the claims. The Commission expired in 1978, at which time pending cases were transferred to the U.S. Court of Claims.

In 1952, the 82nd Congress, under authority of H. Res. 698, requested from the Commissioner of Indian Affairs a complete report on the manner in which the Bureau was determining which tribes, bands, and groups of Indians were qualified to manage their own affairs without Federal supervision.

In the next year, on August 1, 1953, the 83rd Congress officially stated in H. Con. Res. 108 that it was the intent of Congress to free from "Federal supervision and control" specified Indian tribes in accord with the policy of making, "as rapidly as possible," Indians "within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship." Under the termination policy, about 20 termination statutes were passed between 1954 and 1962, affecting about 110 Indian tribes, bands, groups, or reservations.

Directly related to the policy of termination was Public Law 280 (P.L. 83-280, 67 Stat. 588). This Act delegated to five States jurisdiction over most crimes and many civil matters on Federal Indian reservations within their orders. The five States were California, Nebraska, Minnesota (except Red Lake Reservation, Oregon (except Warm Springs Reservation) and Wisconsin (except Menominee Reservation). P.L. 83-280 was amended in 1954 to bring the Menominee Tribe within the civil and criminal jurisdiction of Wisconsin (P.L. 83-66, 68 Stat. 795). In 1958, Congress passed the Act of August 8, 1958 (P.L. 85-615, 72 Stat. 545), which gave Alaska civil and criminal jurisdiction over Indian tribes within its borders; in 1970, however, criminal jurisdiction was returned to the Metlakatla Indian Community in Alaska (P.L. 91-523, 84 Stat. 1358).

Public Law 280 gave all other States the option of assuming such jurisdiction. Since 1953, ten States with this option have accepted some measure of jurisdiction over Indian reservations, but only one of these, Florida, has accepted the same civil and criminal jurisdiction as the original five States.

Prior to Public Law 280, State jurisdiction over Federal Indian reservations had been limited to that conferred by special acts of Congress or recognized judicially (regarding crimes between non-Indians). Otherwise, jurisdiction over Indians on Federal reservations had rested with either the tribal governments or the Federal Government. The Act included no requirement that the consent of the Indian tribes affected be obtained.

In 1954, as part of its policy to disseminate Indian services, Congress passed the Act of August 5, 1954 (P.L. 83-568, 68 Stat. 674) transferring Indian health services from the BIA to the Public Health Service in the then Department of Health, Education and Welfare (now the Department of Health and Human Services).

Strong opposition to the termination arose from Indian tribes and organizations in the 1950s. The impetus toward termination ceased in the 1960s, and no more termination statutes were enacted after 1962.

Self-Determination (ca. 1965-Present)

In its shift away from termination Congress in 1968 made significant amendments to P.L. 280 through the Indian Civil Rights Act of 1968 (Title IV of P.L. 90-284, 82 Stat. 78). The law now required the consent of affected Indian tribes to a State's assumption of civil or criminal jurisdiction. In addition, any State having such jurisdiction was permitted to retrocede all or part of it to the United States. At the same time, however, the Act also made tribal governments and courts under Federal jurisdiction subject to certain provisions of the Bill of Rights that guarantee individual rights. Hence the Act both returned some self-determination to Indian tribes and added restrictions on tribal laws.

"Self-determination without termination" was declared as Federal policy by President Nixon in 1970, and much Indian affairs legislation enacted by Congress thereafter may be seen in this context. Self-determination was conceived as the keystone of a new Federal policy aimed at augmenting the concept of tribal self-government while reiterating the special trust relationship between the Federal Government and Indian tribes.

One of the first demonstrations of Congressional willingness to reject the termination policy was passage of the Act of December 15, 1970 (P.L. 91-550, 84 Stat. 1437), restoring sacred lands, including Blue Lake, to the Taos Pueblo.

In 1973, Congress enacted the Menominee Restoration Act (P.L. 93-197, 87 Stat. 770), which repealed the Menominee Termination Act of 1954 and reinstated the Menominee Tribe as a federally recognized tribe. Before the law's enactment, Committee Chairman Henry M. Jackson testified in favor of restoration before the Committee on Interior and Insular Affairs Subcommittee on Indian Affairs. This Act was, in effect, an implicit repudiation of termination as national policy. (Subsequent legislation has been enacted to restore Federal recognition to other terminated Indian tribes, but after the Committee ceased to have jurisdiction over Indian affairs).

The concept of self-determination was given explicit Congressional expression and direction by passage in 1975 of the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 88 Stat. 2203). Committee Chairman Henry Jackson sponsored the bill along with 13 cosponsors. This statute authorized the Secretary of the Interior (and, regarding the Indian Health Service, the Secretary of Health, Education and Welfare) to contract with Indian tribal organizations as defined under the Act for tribal operation and administration of specified federally funded programs administered by these agencies.

Passage by the 93rd Congress of the Indian Financing Act (P.L. 93-262, 88 Stat. 77), again sponsored by Sen. Jackson (with Sens. James Abourezk [D., SD] and Paul Fannin [R., AZ] as cosponsors), also embodied the concept of Indian self-determination. The Act sought to provide Indians with the opportunity for economic self-sufficiency based on the full utilization of Indian resources. Included in its provisions were expansion of the Indian Revolving Loan Fund, creation of an Indian Loan Guaranty and Insurance Fund, and establishment within the Interior Department of an Indian Business Development Program.

In addition, the 93rd Congress enacted the Indian Judgment Funds Distribution Act (P.L. 93-134, 87 Stat. 466), which permitted the distribution of funds awarded by the Indian Claims Commission without the necessity for prior Congressional approval of the distribution plan for each separate award. Sponsors again were Committee Chairman Jackson and Indian Subcommittee Chairman Abourezk.

The 93rd Congress also passed legislation (P.L. 93-580, 88 Stat. 1910) establishing the American Indian Policy Review Commission, the purpose of which was to provide a major reassessment of Federal Indian policy and to give recommendations thereon. Subcommittee Chairman Abourezk sponsored the bill. Although the Committee had jurisdiction over the establishment of the Commission, the Commission's findings and recommendations were reported to the 95th Congress, in 1977, after the end of Committee jurisdiction.

The 93rd Congress also passed legislation declaring Native Hawaiians eligible to receive benefits from certain programs set up for Indians, in the Native American Programs Act of 1974 (P.L. 93-644, 88 Stat. 2324).

The Committee also held hearings on the establishment of a Native Hawaiians Study Commission land claims, in the 94th and 95th Congresses, and a bill establishing the Commission was passed in 1980 (Act of Dec. 22, 1980, P.L. 96-565, 94 Stat. 3324). Under this law the Committee retained jurisdiction over review of the Commission report and recommendations for congressional action, and hence held hearings on the report in the 98th Congress.

In the 93rd Congress the Committee held hearings on one of the more controversial Indian laws of modern times, the Navajo-Hopi Settlement Act of 1974 (P.L. 93-531, 88 Stat. 1712), which attempted to resolve a longstanding land dispute by partitioning the land between the two tribes and relocating those tribal members residing on lands partitioned to the other tribe. Controversy over the partition and relocation continues to the present.

In February 1975 the Committee issued *Indian Housing in the United States,* a staff report prepared for the Indian Affairs Subcommittee at the request of Committee Chairman Jackson, which has been characterized by analysts as the "most comprehensive survey of Indian housing."

As of the beginning of the 95th Congress, the Committee ceased to have jurisdiction over most aspects of Indian policy, with the exception of Alaska.

EVOLUTION OF THE ADMINISTRATION OF INDIAN AFFAIRS

During the Committee's jurisdiction over Indian policy, from 1820 to 1977, the Executive apparatus for dealing with Indian affairs evolved from the trading house (or "factory") system to a multi-agency operation spread across a number of Executive departments, including Health and Human Services, Education, Justice, Housing and Urban Development, Labor, Commerce, and various Federal agencies.

As mentioned above, Congress placed the administration of Indian affairs under the Department of War in 1789, and the Federal Government maintained Indian trading houses, or "factories," from 1796 to 1822. Congress established the Office of Superintendent of Indian Trade in the War Department in 1806, to administer the trading houses. The Superintendency lasted until 1822, when Congress abolished both it and the trading houses. Responsibility for Indian affairs was still left with the War Department, however.

Bureau of Indian Affairs Under the War Department (1824-1849)

In the absence of a congressionally established office dealing with Indian affairs, Secretary of War John C. Calhoun in 1824 ordered the establishment of a Bureau of Indian Affairs (often called the Office of Indian Affairs) within the War Department. The changing situation on the Indian frontier, however, and the passage of the Indian Removal Act of 1830, made further action necessary.

In the 22nd Congress the Committee introduced a bill authorizing the President to appoint, with the consent of the Senate, a Commissioner of Indian Affairs who was to have "the direction and management of all Indian affairs, and of all matters existing out of Indian relations" (Act of July 9, 1832, 4 Stat. 564). The Commissioner remained under the direction of the Secretary of War and was subject to regulations prescribed by the President.

Two years later Congress reorganized the Department of Indian Affairs within the War Department, in the Act of June 30, 1834 (4 Stat. 735). The Act clarified offices and responsibilities, gave the President power to appoint superintendents and agents, codified certain existing laws, and determined the method of paying Indian annuities.

By the Act of March 3, 1849 (9 Stat. 586), Congress created the Department of the Interior and transferred supervision of the Bureau of Indian Affairs from the Secretary of War to the new Secretary of the Interior. This was important because it signaled a transfer of responsibility for Indian affairs from military to civilian authority.

Bureau of Indian Affairs Under the Interior Department (1849–Present)

For much of the nineteenth century the Bureau was criticized as inefficient and corrupt. Appointments in the BIA were for the most part political, made by the party of the President as part of the spoils of victory. In 1869, President Ulysses S. Grant tried to remedy the situation by delegating the nomination of Indian agents to religious organizations, a policy that lasted until the early 1880s. Also in 1869, because of its distrust of the administration of Indian affairs, Congress authorized the President to organize a Board of Indian Commissioners to exercise joint control with the Secretary of the Interior in overseeing Indian affairs (Act of April 10, 1869, 16 Stat. 40). The Board was established by Executive Order of June 3, 1869, and continued in existence until eliminated by Executive Order in 1933.

The BIA was removed from direct political patronage in the 1890s. Starting with BIA school personnel in 1891, various Commissioners of Indian Affairs gradually brought the Bureau under the Federal civil service system; by 1901 almost all BIA employees were part of the civil service.

The BIA acquired responsibility for more and more aspects of Indian life through the nineteenth ceantury, including education, health, law and order, and economic development. Before 1870 Indian education had been handled chiefly by religious organizations, but beginning in the 1870s Congress put increasing amounts for education in the BIA appropriations and after 1900 BIA education system developed rapidly. Health was not a major BIA program until 1873, when the BIA attempted to bring some organization to its medical assistance to Indians. The first Indian service hospital was established in 1882 and more were built thereafter, but major improvements came only after 1900. Law and order responsibilities of the BIA expanded with congressional authorization of the Indian Police in 1878 and with passage of the Indian Major Crimes Act of 1885 (see above). Economic development efforts by the BIA in the Nineteenth Century consisted mostly of the promotion of farming and stockraising among Indians.

In the twentieth century the range of Indian services administered by the BIA expanded enormously, and other Federal departments came to share these responsibilities. In 1909 the BIA created the office of medical supervisor, and in the Appropriations Act of 1910 (P.L. 61-114, 36 Stat. 271) Congress began to appropriate funds specifically for BIA health services. The Omnibus Act of 1910 (P.L. 61-313, 36 Stat. 855) gave great impetus to the development of reservation resources, catalyzing BIA involvement in timber, irrigation, and property management. In the 1930s the Johnson-O'Malley Act (see above) furthered Indian education and health services by encouraging Federal contracting with State and local governments. The Indian Reorganization Act (see above) attempted to stimulate economic development through its loan funds, while the Indian Mineral Leasing Act of 1938 (P.L. 75-506, 52 Stat. 347) systematized leasing of Indian lands for mineral development. During the termination period in the 1950s, the Indian Health Service was transferred to the Public Health Service in what is now the Department of Health and Human Services (see above), and the then Department of Health, Education and Welfare became more involved in funding Indian education programs.

The 1960s saw further spreading of Indian programs outside of the BIA. After 1961, when the Department of Housing and Urban Development determined that Indian tribes could qualify for public housing assistance, HUD housing programs as well as those of the BIA were available ot Indians. Under the Economic Opportunity Act of 1964 (P.L. 88-452, 78 Stat. 508), the Office of Economic Opportunity offered its programs to Indian communities. In 1965 Title I of the Elementary and Secondary Education Act (P.L. 89-10, 79 Stat. 27) made Indians eligible for Education Department programs for disadvantaged children. This was followed in the 1970s by the Indian Education Act of 1972 (P.L. 92-318, 86 Stat, 334), which established the Office of Indian Education in what is now the Department of Education to administer special programs for Indians. Two years later, new laws expanded Indian programs in economic development and tribal self-sufficiency. The Indian Financing Act of 1974 (see above) expanded loan funds for Indians and established an Indian business development program within the Interior Department, while the Native American Programs Act of 1974 (see above) established the Office of Native American Programs (later the Administration for Native Americans) within the present Health and Human Services Department to fund a broad range of economic and social opportunity programs.

Recent Reorganizations of the Bureau of Indian Affairs

Because of continuing criticism, the BIA has undergone frequent reorganizations. Following the Meriam Report of 1928, the Bureau experienced extensive changes in the 1930s. After World War II, in 1946, the Committee held lengthy hearings on a bill proposing a major BIA reorganization, including the delegation of certain powers of the Interior Secretary to the Commissioner of Indian Affairs and the further delegation of some of the Commissioner's powers to the newly created area offices. The bill was passed as the BIA Reorganization Act of 1946 (P.L. 79-687, 60 Stat. 939). Further BIA reorganizations occurred by Executive action in 1970, when the Secretary of the Interior announced an "executive realignment" of top BIA positions, and early in 1973, when further authority was delegated to BIA field offices and the Washington, D.C., offices were reduced in size and responsibility.

CHRONOLOGICAL LIST OF INDIAN AFFAIRS LEGISLATION SINCE 1789

1789–1799

Act establishing Department of War and placing Indian affairs under it, Act of Aug. 7, 1789, Chap. 7, 1st Congress, 1st Session, (1 Stat. 49)

Act providing for expenses of "negotiating and treating with the Indian tribes", Act of Aug. 20, 1789, Chap. 10, 1st Congress, 1st Session (1 Stat. 54)

Indian Trade and Intercourse Act of 1790, Act of July 22, 1790, Chap. 33, 1st Congress, 2d Session (1 Stat. 137)

Act establishing trading houses with the Indian tribes, Act of April 18, 1796, Chap. 13, 4th Congress, 1st Session (1 Stat. 452)

Indian Trade and Intercourse Act of 1796, Act of May 19, 1796, Chap. 30, 4st Congress, 1st Session (1 Stat. 469)

1800–1809

Permanent Trade and Intercourse Act of March 30, 1802, Chap. 13, 7th Congress, 1st Session (2 Stat. 139)

Act establishing office of Superintendent of Indian Trade, Act of April 21, 1806, Chap. 48, 9th Congress, 1st Session (2 Stat. 402)

1810–1819

Act providing for Federal jurisdiction over Indian territory, Act of March 3, 1817, Chap. 92, 14th Congress, 2d Session (3 Stat. 383)

Act establishing Civilization Fund, Act of March 3, 1819, Chap. 85, 13th Congress, 2d Session (3 Stat. 516)

1820–1829

Act to abolish the U.S. trading establishment with the Indians tribes and the Superintendency of Indian Trade, Act of May 6, 1822, Chap. 54, 17th Congress, 1st Session (3 Stat. 679)

1830–1839

Indian Removal Act, Act of May 28, 1930, Chap. 148, 21st Congress, 1st Session (4 Stat. 411)

Act providing for a Commissioner of Indian Affairs, Act of July 9, 1832, Chap. 174, 22d Congress, 1st Session (4 Stat. 564)

Indian Trade and Intercourse Act, Act of June 30, 1834, Chap. 161, 23d Congress, 1st Session (4 Stat. 729)

Act providing for the organization of Department of Indian Affairs within the Department of War, Act of June 30, 1834, Chap. 162, 23d Congress, 1st Session (4 Stat. 735)

Act regulating disposition of payments to Indians for ceded lands, Act of Jan. 9, 1837, Chap. 1, 24th Congress, 2d Session (5 Stat. 135)

1840–1849

Amendments of 1834 acts, authorizing treaty payments to individual Indians, Act of March 3, 1847, Chap. 66, 29th Congress, 2d Session (9 Stat. 203)

Act establishing Department of Interior and placing Commissioner of Indian Affairs thereunder, Act of March 3, 1849, Chap. 108, 30th Congress, 2d Session (9 Stat. 395, 586)

1850–1859

Act providing for tribal jurisdiction over Indian crimes against other Indians on Indian lands, Act of March 27, 1854, Chap. 26, 33d Congress, 1st Session (10 Stat. 269)

Act confirmating New Mexico Pueblo land claims, Act of Dec. 22, 1858, Chap. 5, 35th Congress, 2d Session (11 Stat. 374)

1860–1869

Act directing an inquiry into condition of Indian tribes, Resolution of March 3, 1865, Resolution No. 33, 38th Congress, 2d Session (13 Stat. 572)

Act establishing "Indian Peace Commission", Act of July 20, 1867, Chap. 32, 40th Congress, 1st Session (15 Stat. 17)

Alaska Treaty of Cession, March 30, 1867, 40th Congress (15 Stat. 539)

Indian Appropriations Act of 1869 (section establishing Board of Indian Commissions), Act of April 10, 1869, Chap. 16, 41st Congress, 1st Session (16 Stat. 13, 40)

1870–1879

Indian Appropriations Act of 1870 (section appropriating funds for Pueblo Indian schools), Act of July 15, 1870, Chap. 296, 41st Congress, 2d Session (16 Stat. 335, 357)

Indian Appropriations Act of 1871 (proviso ended treatymaking with Indians), Act of March 3, 1871, Chap. 120, 41st Congress, 3d Session (16 Stat. 544, 566)

Indian Appropriations Act of 1878 (proviso establishing Indian Police), Act of May 27, 1878, Chap. 142, 45st Congress, 2d Session (20 Stat. 63, 86)

1880–1889

Indian Appropriations Act of 1882 (sections assuming Federal responsibility for Pueblo Indians), Act of May 17, 1882, Chap. 163, 47st Congress, 1st Session (22 Stat. 68)

Supplemental Appropriations Act (section regulating disposition of Indian non-land resources and monies), Act of March 3, 1883, Chap. 141, 47th Congress, 2d Session (22 Stat. 582, 585)

Indian Major Crimes Act, Act of March 3, 1885, Chap. 341, 48th Congress, 2d Session (23 Stat. 362, 385)

General Allotment Act (Dawes Severalty Act), Act of Feb. 8, 1887, Chap. 119, 49th Congress, 2d Session (24 Stat. 388)

Act establishing U.S. courts in Indian Territory, Act of March 1, 1889, Chap. 333, 50th Congress, 2d Session (25 Stat. 783)

1890–1899

Act creating Territory of Oklahoma (out of part of Indian Territory), Act of May 2, 1890, Chap. 182, 51st Congress, 1st Session (26 Stat. 81, 93)

Amendment to General Allotment Act allowing leasing of Indian alloted land, Act of Feb. 28, 1891, Chap. 383, 51st Congress, 2d Session (26 Stat. 794)

Indian Depredations Claims Act, Act of March 3, 1891, Chap. 538, 51st Congress, 2d Session (26 Stat. 851)

Indian Appropriations Act of 1893 (section establishing "Dawes Commission"), Act of March 3, 1893, Chap. 209, 52d Congress, 2d Session (27 Stat. 612, 645)

Indian Appropriations Act of 1894 (proviso directing Indian preference in BIA employment), Act of Aug. 15, 1894, Chap. 290, 53d Congress, 2d Session (28 Stat. 286, 313)

Indian Appropriations Act of 1894 (proviso extending Oklahoma Indian special court jurisdiction to all persons), Act of June 7, 1897, Chap. 3, 55th Congress, 1st Session (30 Stat. 62, 83)

Curtis Act, Act of June 28, 1898, Chap. 517, 55th Congress, 2d Session (30 Stat. 495)

1900–1909

Indian Appropriation Act of 1905 (proviso removing restrictions from most allotted lands of Five Civilized Tribes), Act of April 21, 1904, P.L. 125, 58th Congress, 2d Session (33 Stat. 189, 204)

Act extending Oklahoma Territory jurisdiction to all persons, Act of April 28, 1904, P.L. 256, 58th Congress, 2d Session (33 Stat. 573)

Indian Appropriations Act of 1906 (proviso abolishing Commission to the Five Civilized Tribes ["Dawes Commission"], establishing a Commissioner to the Five Civilized Tribes, and exempting Pueblo Reservations from land taxes), Act of March 3, 1905, P.L. 212, 58th Congress, 3d Session (33 Stat. 1048, 1060, 1069)

Five Tribes Act, Act of April 26, 1906, P.L. 129, 59th Congress, 1st Session (34 Stat. 137)

Burke Act, Act of May 8, 1906, P.L. 149, 59th Congress, 1st Session (34 Stat. 182)

Oklahoma Statehood Act, Act of June 16, 1906, P.L. 234, 59th Congress, 1st Session (34 Stat. 267)

Act providing for the allotment and distribution of Indian tribal funds, Act of March 2, 1907, P.L. 182, 59th Congress, 2d Session (34 Stat. 1221)

1910–1919

Indian Appropriations Act of 1910 (includes funds specifically for BIA health services), Act of April 4, 1910, P.L. 61–114, 61st Congress (36 Stat. 269, 271)

New Mexico Enabling Act, Act of June 20, 1910, P.L. 61–219, 61st Congress (36 Stat. 557)

Omnibus Act of 1910, Act of June 25, 1910, P.L. 61–313, 61st Congress (36 Stat. 855)

Indian Appropriations Act of 1914 (proviso abolishing Commissioner of Five Civilized Tribes), Act of Aug. 1, 1914, P.L. 63–160, 63d Congress (38 Stat. 582, 598)

1920–1929

Snyder Act, Act of Nov. 2, 1921, P.L. 67–85, 67th Congress (42 Stat. 208)

Citizenship Act, Act of June 2, 1924, P.L. 68–175, 68th Congress (43 Stat. 253)

Pueblo Lands Act, Act of June 7, 1924, P.L. 68–253, 68th Congress (43 Stat. 636)

Act authorizing oil and gas mining leases (Congress assumes final approval of changes in Executive Order reservations), Act of March 3, 1927, P.L. 69–702, 69th Congress (44 Stat. 1347)

Resolution authorizing Senate Committee on Indian Affairs to survey Indian conditions, Feb. 2, 1928, Senate Resolution 79, 70th Congress

Act authorizing State representatives to make health and education inspections on Indian lands, Act of Feb. 29, 1929, P.L. 70–760, 70th Congress (45 Stat. 1185)

1930–1939

Johnson-O'Malley Act, Act of April 16, 1934, P.L. 73–167, 73d Congress (48 Stat. 596)

Indian Reorganization Act of 1934 (Wheeler-Howard Act), Act of June 18, 1934, P.L. 73–383, 73d Congress (48 Stat. 984)

Indian Arts and Crafts Board Act, Act of Aug. 27, 1935, P.L. 74–355, 74th Congress (49 Stat. 891)

Alaska Reorganization Act of 1936, Act of May 1, 1936, P.L. 74–538, 74th Congress (49 Stat. 1250)

Oklahoma Indian Welfare Act of 1936 (Thomas-Rogers Act), Act of June 26, 1936, P.L. 74–816, 74th Congress (49 Stat. 1967)

Indian Mineral Leasing Act of 1938, Act of May 11, 1938, P.L. 75–506, 75th Congress (52 Stat. 347)

Act authorizing deposit and investment of Indian trust funds (disallowed distribution to individuals), Act of June 24, 1938, P.L. 75–714, 75th Congress (52 Stat. 1037)

1940–1949

BIA Reorganization Act, Act of Aug. 8, 1946, P.L. 79–687, 79th Congress (60 Stat. 939)

Indian Claims Commission Act, Act of Aug. 13, 1946, P.L. 79–726, 79th Congress (60 Stat. 1049)

1950–1959

Navajo-Hopi Rehabilitation Act of 1950, Act of April 19, 1950, P.L. 81–474, 81st Congress (64 Stat. 44)

Joint resolution authorizing study by Secretary of Interior to determine Indian tribes' qualifications to manage their own affairs, July 1, 1952, H.J. Res. 8, 82d Congress

Resolution authorizing House Committee on Interior and Insular Affairs to investigate BIA and its methods of determining Indian tribes' qualifications to manage their own affairs, July 1, 1952, H. Res. 698, 82d Congress

Resolution stating termination policy, Aug. 1, 1953, H. Con. Res. 108, 83d Congress (67 Stat. B132)

Public Law 280 (conferred State jurisdiction over Indian lands in selected States), Act of Aug. 15, 1953, P.L. 83-280, 83d Congress (67 Stat. 588)

Menominee Termination Act, Act of June 17, 1954, P.L. 83–399, 83d Congress (68 Stat. 250)

Act transferring Indian health services from BIA to Public Health Service, Act of Aug. 5, 1954, P.L. 83–568, 83d Congress (68 Stat 674)

Act bringing Menominee Reservation under Public Law 280, Act of Aug. 24, 1954, P.L. 83–66, 83d Congress (68 Stat. 795)

Alaska Statehood Act of 1958, July 7, 1958, P.L. 85–508, 85th Congress (72 Stat. 339)

Act amending the law with respect to civil and criminal jurisdiction over Indian country in Alaska, Act of Aug. 8, 1958, P.L. 85–615, 85th Congress (72 Stat. 545)

1960–1969

Economic Opportunity Act of 1964, Act of Aug. 20, 1964, P.L. 88–452, 88th Congress (78 Stat. 508, 520)

Title I of the Elementary and Secondary Education Act of 1965, Act of April 11, 1965, P.L. 89–10, 89 Congress (79 Stat. 27)

Indian Civil Rights Act, Act of April 11, 1968, P.L. 90–284, 90th Congress (82 Stat. 78, Title IV)

1970–1979

Act restoring criminal jurisdiction to Metlakatla Indian Community in Alaska, Act of Nov. 25, 1970, P.L. 91–523, 91th Congress (84 Stat. 1358)

Pueblo de Taos Indians Cultural and Ceremonial Shrine Protection Act of 1970 (restored Blue Lake), Act of Dec. 15, 1970, P.L. 91–550, 91st Congress (84 Stat. 1437)

Alaska Native Claims Settlement Act of 1971 (ANCSA), Act of Dec. 18, 1971, P.L. 92–203, 92d Congress (85 Stat. 688)

Indian Education Act (Title IV of Higher Education Act), Act of June 23, 1972, P.L. 92–318, 92d Congress (86 Stat. 334)

Indian Judgment Funds Distribution Act, Act of Oct. 19, 1973, P.L. 93–134, 93d Congress (87 Stat. 466)

Menominee Restoration Act, Act of Dec. 22, 1973, P.L. 93–197, 93d Congress (87 Stat. 770)

Indian Financing Act of 1974, Act of April 12, 1974, P.L. 93–262, 93d Congress (88 Stat. 77)

Native American Programs Act of 1974, Act of Jan. 4, 1975, P.L. 93–644, 93d Congress (88 Stat. 2324)

Navajo-Hopi Settlement Act, Act of Dec. 22, 1974, P.L. 93–531, 93d Congress (88 Stat. 1712)

American Indian Policy Review Commission Act, Act of Jan 2, 1975, P.L. 93–580, 93d Congress (88 Stat. 1910)

Indian Self-Determination and Education Assistance Act, Act of Jan. 4, 1975, P.L. 93–638, 93d Congress (88 Stat. 2203)

Indian Health Care Improvement Act, Act of Sept. 30, 1976, P.L. 94–437, 94th Congress (90 Stat. 1400)

1980–1988

Native Hawaiians Study Commission Act, Act of Dec. 22, 1980, P.L. 96–565, 96th Congress (94 Stat. 3324)

Federal Oil and Gas Royalty Management Act of 1982, Act of Jan. 12, 1983, P.L. 97–451, 97th Congress (96 Stat. 2447)

Alaska Native Claims Settlement Act Amendments of 1987, Act of Feb. 3, 1988, P.L. 100–241, 100th Congress (101 Stat. 1788)

CHAPTER SIX

MINERALS POLICY

Issues and Legislation Through 1970

The Energy and Natural Resources Committee deals with a large number of mining and minerals issues which have required continuous activity over the years. Basic mining legislation applies to both fuels and non-fuel mineral resources, although many laws apply to specific minerals or fuels.

Throughout the Nation's history, these natural resources questions, focusing often on essential minerals, have required constant adjustment through legislation. The Energy and Natural Resources Committee inherited the basic groundwork for the Nation's mineral policies laid by one of its predecessors—the Mines and Mining Committee. Post World War II-conditions and growth put minerals legislation in a somewhat new context, focusing on potential or actual shortages of essential materials. The Committee has been largely responsible for comprehensive minerals policy issues, as well as for specific mining issues.

Historical Context: Before 1946

In the period before World War II, the primary legislative emphasis was to manage leasing of mineral rights on the Federal lands, with some attention to the research needed for better mining technology.

The Mining Law of 1872 provided the basic authority for location and sale of mineral exploration and development rights for mineral deposits in the Federal lands. Still in effect today, it provides that the public domain (but not acquired lands) should be open to prospecting for gold, silver, iron, lead, zinc, copper, and other minerals not subject to lease or sale under other laws in areas that are not already claimed or withdrawn from claim locations. The law provides that a prospector who discovers a valuable deposit of the eligible mineral could file a claim and mine the mineral for as long as he wishes. Patent to the land can also be obtained in connection with such a claim, where ore is discovered and proved; this provides title to the land, including rights to dispose of resources on the surface. The complexities and uncertainties of the 1872 law has been the source of constant attempts at revision. To determine how effective it still is in governing mineral resources that remain unclaimed on the public lands, and how it might most effectively be adjusted is a high priority issue for continuing Committee review.

The Mineral Leasing Act of 1920 (P.L. 66–146, 41 Stat. 437) was the next major minerals law. It removed oil, gas, sodium, sulphur, potassium, coal, phosphate, oil shale and certain other minerals from the 1872 Act and set forth procedures for leasing—not selling or permanently disposing of—the rights to explore for and develop these minerals. The 1920 Act also reserved to the U.S. Government the right to extract helium from any natural gas found on Federal lands.

In 1910, the Bureau of Mines was established (P.L. 61–179, 36 Stat. 369) and granted broad research responsibilities, including development and assessment of mining and minerals processing technology. The Bureau has since evolved into the chief U.S. agency for collection, interpretation, and publication of statistical information on minerals of all types. Among the Bureau's original and continuing mandates were the new and more efficient uses of metals, methods of treating metals, and utilization of low-grade ores. In 1915, Congress authorized establishment of ten mining experiment stations and seven mine safety stations. Several of these dealt with fuel resources and mining, and metallurgy and non-fuel mineral resources were emphasized in others.

In the period before 1946, there was intense interest historically in the legislation affecting disposition of the precious metal and other mineral ores on public lands, and in the issues related to utilization and marketing of the metal produced. The production and leasing issues comprise the bulk of the subjects addressed by the Committee in the pre-war period.

Minerals Issues After 1946

In the post-war period, leasing and other procedures for managing and disposing of the mineral resources of the public lands continued to be a prime concern. The basic framework was in place, established by the 1872 and 1920 laws; however, several major adjustments were made under the Committee's leadership. In 1947 the Materials Act established the principle for the first time that the Interior Department could sell mineral surface resources of the public lands, if not subject to the Mining Law, such as timber, sand, stone, gravel, clay, and other related products, without transferring title to the lands on which these materials were located. In the past, they were disposed of only through the 1872 Mining Law, or the various homestead laws, which provided that claim holders who were granted patent to the land could then also dispose of surface resources. However, in practice, disposal by Interior took place only for timber, until this principle was clarified in 1955.

In the mid-1950s, multiple use principles for the public lands were growing in favor and resulted in two major minerals laws. In 1954, the Multiple Mineral Development Act was enacted, resolving some legal obstacles to production of metal ores on lands already leased to a lease-holder for oil and gas rights, or conversely, the production of oil and gas on lands claimed for metallic ore exploitation. This law, Public Law 83–585 (68 Stat. 708) provided that mining claims under the 1872 law based on gold, silver, and other metals could be filed on public lands where oil and gas resources were present, but the oil and gas rights would be retained by the Federal Government, to be leased separately. It also provided for the exploration for oil and gas on lands where a mining claim existed, in cases where the claim was abandoned. This law therefore resolved legal conditions which has prevented exploration for these resources in many areas.

In 1955, the Multiple Surface Use Act (Public Law 85-167, 69 Stat. 367) created several important changes in the operations of the 1947 Materials Act and the 1872 Mining Law. One of its major purposes was curtailing the abuses of the Mining Law which occurred in connection with surface resources. In many cases, mining claims were filed by individuals who had no real intention of mining the minerals for which the land was claimed, or of filing for a patent to the land based on these minerals; the real intention was to use the land for homesites, grazing, timber production, or other uses.

The 1955 law clearly established that surface resources on areas claimed for mining were to be reserved to the United States until a patent was granted to the claimholder; such patents were granted only when the claimant could prove he had discovered a valuable mineral and that it would be aimed at a profit. Thus, until patent was granted to the land, the claimholder could not use it for grazing, or for timber, or for use of other surface resources. He would have these rights only after the patent was granted. Another provisionof the 1955 Act removed from the 1872 Mining Law a number of other materials which had been subject to mining claims; these were common varieties of sand, stone, gravel, pumice, and other specified materials. These materials were to be sold by contract by the Interior Department in accordance with provisions of the Materials Act of 1947. This contributed to the growing role of the Interior Department as an active manager of the surface and other resources of the public lands, with responsibility for the sale and lease of a growing number of public lands resources. It also clarified the disposal rights of the Secretary of the Interior for the materials named in the 1947 Act.

Also in the 1950s, two major laws clarified Federal jurisdiction over the area off U.S. shores. The Submerged Lands ("Tidelands") Act of 1953 (P.L. 88-31, 67 Stat. 29) gave to the States ownership of the lands in the sea off their borders extending three miles out to sea, including the mineral resources in these lands; the Outer Continental Shelf Lands Act of the same year (P.L. 83-212, 67 Stat. 462) clarified Federal control, jurisdiction, and disposition of the resources of the Outer Continental Shelf (OCS), which is the area seaward of the States' jurisdiction. The Secretary of the Interior was authorized to grant leases for private extraction of oil and gas in the OCS on the basis of competitive bidding. The various conditions under which leasing can be carried out are specified by the law. This was landmark legislation, establishing the Federal statutory authority for the first time over the lands off the Nation's coasts.

In 1970, the Committee led the enactment of the Mining and Minerals Policy Act of 1970. The law has a history extending to 1963, when Senators Allott and Bennett introduced a bill to establish a national mining and mineral policy. Hearings were held in 1963, the full committee considered the bill, but no action was taken. As enacted in 1970, P.L. 91-631 established a broad overall national minerals policy which emphasized the need for a stable domestic mining and minerals industry. The act declared a continuing national policy to foster and encourage private enterprise in development of economically sound and stable domestic mining, minerals, and metal and mineral reclamation industries; encouraged mining, mineral, and metallurgical research, including use and recycling of scrap; and the study and development of methods for the disposal, control, and reclamation of mineral waste products and reclamation of mined land. The Secretary of the Interior was given responsibility for carrying out provisions of this Act, and required to make an annual report to Congress on the state of domestic mining, minerals, reclamation industries, and resource depletion.

Also in 1970, in legislation that passed through the Public Works Committee, the Resources Recover Act of 1970 contained in Title II the "National Materials Policy Act of 1970" which created the National Commission on Materials Policy and provided a mandate for a major study of materials needs and related recommendations for a national policy. In 1973, the Commission made its report containing recommendations touching on all natural resources, as well as minerals, and others.

FEDERAL COAL LEASING POLICY

Background

Federal coal management policy had been in turmoil since the late 1960s. Around that time, both Government agencies and independent organizations determined that relatively large amounts of Federal coal had been leased under an arrangement that had been poorly coordinated, required little performance from the coal mining industry, and provided what was considered minimal compensation to the Federal Government for the right to extract coal resources. This led to a moratorium in coal leasing in 1971.

These consequences of early coal policy, or the lack thereof, were not intentional but merely the result of past programs in several administrations, designed to encourage or even stimulate mineral development on public lands. The basic statutory authority in the field was 1920 Minerals Leasing Act, established at a time when coal on Federal lands was not considered an important component in the national energy matrix.

To understand the conditions that led to fundamental changes in leasing policies, the period from the early 1960s until the present should be broken into four rough segments: pre-moratorium coal leasing; moratorium up to the enactment of the Federal Coal Leasing Amendments Act (FCLAA, P.L. 94-377, 90 Stat. 1083); enactment of FCLAA; and subsequent regulatory changes and proposed changes.

Prior to the 1971 moratorium on coal leasing, leases could be obtained either through competitive bidding or through a non-competitive system of prospecting permits and preference right leases. An applicant for a coal prospecting permit was only required to pay a $10 filing fee and 25 cents per acre rental for the exclusive rights to explore for coal on a tract. To renew the exclusive exploration rights, the applicant only needed to claim a minimal investment of more than $1 per acre per year. This procedure enabled a prospector to lock up reasonably large parcels of Federal coal lands.

Once the prospecting permit was issued and the applicant demonstrated to the satisfaction of the Bureau of Land Management

(BLM) the presence of commercially minable quantities of coal, the prospector could apply for a preference right lease which, if granted, conveyed the exclusive right to extract the coal. This system made no provision for an auction and therefore there was no competition for the lease. This, however, does not suggest that there would have been active bidding, i.e., "effective competition," if the lease had been awarded as a result of an auction. On the contrary, the lack of active bidders in competitive leasing during the same period suggests that interest in Federal coal was generally lacking, regardless of the mechanism used for disposal. At that time leases had been divided about equally under the two systems, and many leases awarded under competitive bidding had attracted only one bidder. Many parties interested in obtaining Federal coal opted for the preference rights lease route whereby they applied for a prospecting permit, demonstrated the existence of "commercially developable" coal deposits in the permit area, and submitted a preference right lease application, tantamount to the actual award of the lease. Once the lease was awarded, it was not closely monitored, and there were inadequate incentives to produce coal on the lease tract.

Although this sytem had been in place since the enactment of the Minerals Leasing Act of 1920, leasing of Federal coal did not peak until the 1960s. A report published in 1978 by the Senate Committee on Energy and Natural Resources said:

> From the enactment of the Minerals Leasing Act in 1920 until 1950, with the exception of the war years of 1941 through 1945, the number of leases awarded did not exceed 20 per year, and did not exceed 40 per year until 1960. From 1961 until 1965, however, the number of coal leases on the public lands rose sharply to slightly over 150 per year; it was almost 160 annually during the years from 1965 until 1970.

Thus, during the decade from 1961 through 1970, more coal leases were awarded than had been in all of the previous years. At the time the Department of the Interior established the moratorium in 1971, approximately 16 billion tons of coal had been disposed of in over 500 leases. While 16 billion tons sounds like an enormous amount of coal (about twenty times the current annual production), it should also be viewed as involving 10 percent of the estimated Federal coal resources and 3.7 percent of an estimated total of 437 billion tons of public and private coal reserves in the United States.

Critics of Government leasing were more concerned with an apparent lack of production from these leases than with the number of leases and the total reserves held. According to a report by the Council on Economic Priorities, very few of the leases awarded under the old system were actually producing coal. This lack of production raised the possibility that lessees were acquiring and holding coal merely as a long-term supply hedge or were engaging in speculation with Federal coal. This concern seemed to be supported by the large number of lessees who were unlikely producers of coal.

In a December 1981 study, the Office of Technology Assessment pointed out that by 1970, 11 percent of Federal coal tracts under lease had been leased to unincorporated individuals who might not be considered viable candidates to actually mine coal. Production from these leases accounted for only three percent of total production from Federal leases in 1972. Although the percentage of holdings by unincorporated individuals dropped significantly by 1980—to six percent of acreage—the idea of lease speculation had already been sufficiently implanted to provide impetus for the 10-year moratorium.

The impact of speculators on commodity or land markets is varied. Under some circumstances their purchases and sales may actually provide a stabilizing force by reducing market fluctuations. However, in the case of the coal leases, where acquisition was at essentially no cost and the eventual timing of future transfer of those leases or their development was uncertain, the effect was not necessarily beneficial and was difficult to measure.

Coal Leasing Moratorium

By 1971, it had become apparent to the Department of the Interior that something had to be done about Federal coal management policies. Until the Department could determine what direction a leasing program should take, it decided informally to discontinue leasing altogether in 1971. As matters developed, no long-term leases were issued between 1971 and 1981.

In May 1974, shortly before the introduction of the Coal Leasing Amendments Act, the Department published a draft programmatic environmental impact statement (EIS) on Federal coal management. The heart of the EIS was a systematic leasing approach called the Energy Minerals Allocation Recommendation System (EMARS). However, during the comment period, EMARS was criticized for lacking a more detailed description of the leasing program, and for lacking a justification for additional leasing when substantial amounts of coal were already under lease.

In September 1975, the Department of the Interior presented its second coal leasing effort. In addition to functional changes, Interior also modified the name of the program; it was now called the Energy Minerals *Activity* (instead of Allocation) Recommendation System (EMARS II). The change from "allocation" to "activity" was reportedly made to accommodate those who complained that "allocate" connoted development as the final outcome of all EMARS applications and excluded zero development as an option. The revised program provided for greater industry input by allowing industry to nominate lease tracts.

On October 21, 1975, the Natural Resources Defense Council challenged the program in the U.S. District Court for the District of Columbia, alleging that insufficient justification was provided for the major changes between the draft and the final programmatic environmental impact statement. On September 27, 1977, the Court rules that the programmatic impact statement was inadequate and enjoined the Department of the Interior from further leasing except where it was needed to maintain an existing operation, or to facilitate the development of Federal coal that would otherwise be bypassed. The Court further ordered the Interior Department to prepare a supplement to the 1975 programmatic EIS and to solicit comments accordingly. Rather than submit a supplement to the old EIS, the Department prepared a totally new one, published in April 1979. This statement is principally the foundation for the current leasing program.

The four benefits of the new program, as claimed in the Department's EIS statement, are considered below.

The most important benefit is that it would give the Nation greater assurance of being able to meet its national energy objectives.

Although the planned production from non-Federal and Federal properties appeared sufficient for the low-coal energy-demand scenario, the Department of the Interior thought additional leasing might be desirable. In meeting national energy objectives, the Department observed that the lead time for the development of a coal mine on Federal property was somewhere between 4 and 7 years following the lease sale. Even this may be a little conservative, based on the amount of time that some tracts have taken for development. During this time, many geologic, economic, or environmental problems could occur that would prevent mining. The Department reasoned that in order to meet projected energy requirements, more leasing might be required to serve as a reserve against the possibility that some of the tracts might not prove suitable for development.

New leasing would also provide a means to promote a more desirable pattern of coal development. It may be possible to reduce the adverse environmental impacts resulting from coal mining by altering coal development patterns.

The Department of the Interior suggested that leasing in the West has been relatively hodge-podge and involved leasing of private, State, Indian, and Federal lands. Many of the tracts involved quantities that would not, by themselves, support coal production over the life of most receiving facilities (usually steam electric power plants), about 25 to 30 years. To withhold additional Federal coal lands would force development into a distorted, higher-cost production pattern on lands already accessible, either private land or Federal tracts already leased. Eventually, without additional leasing to flesh out lower-cost logical mining units, companies would be required to shift regional production patterns, perhaps to the East, where coal would be more expensive and where, because of the thinner seams, the environmental disturbance would be greater.

A resumption of leasing offers significant legal and administrative advantages for the Department of the Interior.

The Department also concluded that resumption of leasing would expedite solutions to many of the administrative problems resulting from outstanding Preference Rights Lease Applications (PRLAs). Many of these applications were for areas considered environmentally unsuitable, but tracts could not be exchanged until the Department had formulated a comprehensive program for land-use planning and coal management.

Finally, the state of competition in the western coal industry would be improved by new leasing.

The Department indicated that the best way to enhance competition among potential lessees was to resume leasing. This would allow other entrants into coal leasing and make it more difficult for a small number of operators to monopolize the development of western coal. Shortly before the publishing of the Final Environmental Impact Statement by the Department, a report on competition within the coal industry was prepared by the Department of Justice. This report concluded that the Federal leasing moratorium could, in fact, be detrimental to competition for coal in the Northern Great Plains area.

Leasing Legislation

Just before the Department of the Interior developed its new Federal coal management program, the Congress examined some of the shortcomings of the old system and looked for new approaches. Extensive review of the original coal leasing program and the introduction of legislation to revamp the leasing system began to accelerate during the 93 Congress. The major bill, the Federal Coal Leasing Amendments Act of 1973 (S. 3528) was limited to leasing only on coal lands, but several of the provisions of the earlier bills were incorporated in it. It is also interesting to note that most of the elements of the ultimate amendments to the leasing law were contained in this earlier bill. Passage of the bills would have resulted in the six following changes in the existing law:

First, coal leases could be issued by competitive bidding only.

Second, leases would be issued after adoption of comprehensive land use plans prepared in consultation with State and local governments and with ample opportunity for public review.

Third, prospecting permits and preference right leases would be eliminated.

Fourth, coal leases would be for a specified term of 20 years and so long thereafter as coal is produced.

Fifth, one year after obtaining a coal lease, the lessee would have to submit a development and reclamation plan. When the plan was approved, it would have to be followed, unless it is amended.

Sixth, the revenue sharing provisions of the Mineral Leasing Act of 1920 would be amended to broaden the purposes for which the States could use their share of coal leasing revenues.

Although there was extensive debate during the 93rd Congress, much of which was related to diligence requirements, the size of the leasing tracts, and whether surface mining reclamation requirements should be included in the leasing legislation, no bill was sent to the President.

In the beginning of the 94th Congress, legislation was introduced early that was essentially the same as that which died at the end of the 93rd Congress. One of the key bills, S. 391, introduced by Senator Lee Metcalf (D., MT), contained the same six fundamental elements listed above that were contained in S. 3528. Both the House and Senate Interior Committees again held extensive hearings to gather further views on the pending legislation and to debate the merits of the bills. After extensive deliberation in the 93th and 94th Congresses, legislation cleared both Houses in June 1976. This legislation included provisions for an all-competitive bidding system and a requirement for continued production from leases following a designated time period (diligence requirements), and it eliminated prospecting permits and preference rights leases.

The legislation was vetoed by President Gerald Ford because it contained "so many rigidities, complications, and burdensome regulations . . . that it would inhibit coal production on federal lands, probably raise prices for consumers, and ultimately delay our achievement of energy independence." Despite this opposition of the Administration, congressional support was sufficiently strong to override the veto, and FCLAA was enacted on August 4, 1976, as P.L. 94-377 (90 Stat. 1083).

The new law made four major changes in the original 1920 coal leasing program. First, it established a requirement for operation and reclamation plans on Federal leaseholds. Section 7(c) of the new law provided the lessee 3 years within which to submit such a plan to the Secretary of the Interior. In cases where mining could result in significant environmental disturbance, the Secretary was granted the authority to approve, disapprove, or require modification of the plan. This section of the Leasing Amendments Act was the precursor of separate but much more comprehensive land reclamation legislation that was to follow in the 95th Congress. That law, the Surface Mining Control and Reclamation Act (P.L. 95-87, 91 Stat. 445), unlike section 7 of the leasing law, established stringent reclamation standards for all lands, both public and private. Furthermore, it was much more exacting in its reclamation standards. The inclusion of reclamation requirements in the Leasing Amendments Act, however, indicated the strength of congressional interest in environmental protection.

Second, the new law significantly changed the royalty system. Under the 1920 Minerals Leasing Act, the Government received a royalty that was a fixed sum per unit of production. Consequently, as the price of coal increased, the percentage return to the Government from the gross income decreased proportionately. To protect the proportional return to the Government, Sec. 7(a) of the law states:

> A lease shall require payment of a royalty in such amount as the Secretary [of the Interior] shall determine of not less than 12½ per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations.

The third major change in the coal management program eliminated the future issuance of preference rights leases and required that disposition of Federal coal be through a competitive bidding process only. As of about 1974, about 45 percent of the land under lease (a little over 300,000 acres) was acquired with preference rights leases. Section 2 of the amendments to the FCLAA states that the Secretary shall "upon the request of any qualified applicant or on his own motion, from time to time, offer such lands for leasing and shall award leases thereon by *competitive bidding.*" [Emphasis added.] To further enhance competition for Federal coal, the Act also required that no less than 50 percent of the leases be offered on a "deferred bonus bidding basis." This was intended to defray a large portion of the front-end cost to enable small mine operators to participate in the bidding.

The fourth major change made by the 1975 Coal Leasing Amendments Act required coal conveyed by Federal lease to be developed within a certain time (diligence). Many observers had suspected that the low bids for competitive leases prior to this change might have resulted from the existence of preference rights leases which were speculative holdings of Federal coal leases on which production had been delayed without regard for public need. According to the Council on Economic Priorities, by 1974 only 52 of the 474 outstanding leases (or 11 percent) were actually producing coal. Over 300 of the leases had never produced any coal, and during the 54 years of the leasing program, Federal lands had been responsible for producing less than one percent of the total U.S. output. Alternatively, while these leases were obviously overhanging the market, their lack of development, at least in some cases, could also be interpreted as evidence that the leases had little commercial value, were not minable, or had, after original acquisition, actually proven to be poor prospects for development.

Section 7 of the FCLAA addressed this issue. Any lease which was issued after enactment and which is not producing coal in commercial quantities following its tenth year shall be terminated. The Act does, however, provide the Secretary of the Interior with some flexibility in instances where production already begun is interrupted unavoidably. In such cases, the lessee can continue paying royalties to the Government in amounts equivalent to those which would have been paid if production had continued. These advanced royalties can then be credited against actual royalties later, when production is resumed, provided that the interruption is in good faith and not too long.

Subsequent Regulatory Changes

The permanent regulations under the new coal leasing law were issued July 19, 1979. Compared to the prior regulations, they can be characterized as comprehensive and detailed. Although the regulations themselves have not been criticized, their implementation has been criticized by the environmental community, and the leasing procedures have been scrutinized by both the House Interior and the Senate Energy and Natural Resources Committees.

The focal point of the criticism has been whether the Interior Department has leased coal for less than its "fair market value". Under the 1979 regulations (43 CFR 3422.1-1), the Secretary solicited much more detailed information than was previously solicited from interested parties in determining fair market value of coal resources, the methods of extraction that would achieve the maximum resource recovery, income streams and production costs, and the price that the coal might reasonably be expected to bring in the market. Following the sale, a panel was to be convened to determine if the high bid reflected the fair market value of the lease, and to recommend approval or rejection of the issuance of the lease.

These regulatory changes pertaining to "fair market value" have themselves been subjected to some technical but generally not substantive changes by the Reagan Administration. While many of these changes are characterized by the Administration as reflecting a desire to eliminate red tape, they are perceived by environmental protection groups and any State and local governments as reducing the opportunity for citizen participation in the coal leasing program. Apart from the immediate question of arriving at fair market value, many of the parties involved in coal leasing understandably resist any reduction in opportunities to express their concerns and to be involved in the decision process.

Apart from environmental concerns, the Department had drawn some major criticism for its switch from basing leasing targets on projected coal demand to basing its targets on industry's perception of long-term reserve requirements. These concerns centered on the potential for leased reserves to exceed estimates of regional demand previously determined by the Department of Energy. Defending its actions, the Administration had indicated that this change would eliminate its need to forecast future coal demand, an uncertain and difficult task, by providing industry with more flexibility to react to changing market conditions.

On September 28, 1982, a suit was filed in the United States District Court for the District of Columbia against the Department of the Interior's Bureau of Land Management (BLM) by eight environmental organizations. The complaint filed by the plaintiffs seeking injunctive relief was critical of the leasing levels and of the new diligence requirements proposed by the BLM. The complaint did not include any type of economic analysis to prove or disprove the merits of further leasing. It maintained only that sufficient coal is already under lease to meet demand for many years.

Recent Leasing Activity

A 1982 Powder River Basin lease sale was severely criticized by both the Surveys and Investigations staff of the House Appropriations Committee and the General Accounting Office. Each had published a report concluding that the Department of the Interior issued coal leases for less than fair market value. The report of the House Appropriations Committee further indicated that the entire 1982 sale may have been compromised by a leak to industry officials of the Department's minimum acceptable bids (MABs) just prior to the auction.

In hearings before the House Appropriations Committee Secretary James Watt denied the charge of a leak and also stated that a change to the new leasing system (made during the time of the solicitation) would have made such a leak irrelevant anyway, since the entry level bids would be public knowledge following their publication in the *Federal Register*.

The GAO report was critical of the bids received by Interior for its coal. Moreover, the Agency concluded that, in the midst of its largest lease sale, Interior should not have been changing from one bidding system to another without proper justification and more in-depth analysis of the consequences.

Disagreement between elements of Congress and the Department of the Interior resulted in legislative proposals to curtail further leasing in FY84, directly and through the appropriations process. The appropriations bill containing the language for the moratorium passed in the full committee on June 21, 1983. Similar legislation to impose a 3-month moratorium until FY84 failed to pass the Senate (48–51). The amendment to the continuing resolution to prevent the imminent Ft. Union lease sale did not survive the conference compromise.

The Appropriations Committee's interest in the fair market value question eventually led to the creation of a Commission to review the Department's coal leasing procedures to ensure receipt of fair market value (Supplemental Appropriations Act, 1983, Public Law 98-63, 97 Stat. 301).

In order to promote the greatest possible return to the Government from coal leasing, the Commission made the following recommendations:

—To promote predictability and stability of Federal leasing actions, the Government should establish and announce a coal leasing schedule in a timely fashion;

—The involved States and regional advisory groups should continue to play an integral role in the timing, selection, and amounts of coal that will be leased;

—The Government should not seek to raise the price of coal above the competitive market level by exercising its near-monopoly power in western coal reserves;

—To encourage active competition among mining companies, the Governmen' should seek to provide adequate diversity in quantity and quality of Federal coal lease holdings offered for sale.

The latest congressional effort to stop the next lease sale invoked section 204(e) of the Federal Land Policy and Management Act (FLPMA, P.L. 94-579), which requires the Secretary of the Interior, when notified by the Interior Committees of either the House or Senate, to make emergency withdrawals in situations where extraordinary measures must be taken to preserve values that would otherwise be lost.

Throughout the leasing debate, the Department of the Interior had maintained that another moratorium would be counterproductive and that, if possible, it would carry forward its plan to lease several billion tons of coal over the next 4 years. Trade journals have reported that the most recent debate is centered on the constitutionality of section 204(e), considered by the Administration to be a legislative veto.

LEASING OIL AND GAS RESOURCES ON FEDERAL LAND

As part of the effort to increase oil production following the 1973 Arab oil embargo, President Nixon in January 1974 ordered the Interior Department to accelerate leasing of oil resources on Federal lands on the Outer Continental Shelf (OCS). The leasing goal he set was 10 million acres in 1975, three times the amount that had been previously scheduled by the Department.

Neither the Interior Department nor the oil industry was prepared to carry out the Nixon order, but the speech acted as a catalyst for advocates of a reform of the existing leasing laws. Coastal States, concerned with the potential impact of large-scale offshore development and related onshore effects, saw the optimistic Nixon lease sale goal as a legitimate reason to force changes in the existing legislation. This was the Outer Continental Shelf Lands Act of 1953 (P.L. 83-212, 67 Stat. 462), under which the Interior Department leased oil and gas resources in coastal waters beyond the jurisdiction of the States.

A little more than 1 million barrels per day (b/d) were being produced from U.S. offshore wells in 1973, all of it from the Gulf of Mexico, except for about 50,000 b/d off California. But in the new climate of demand for domestic sources of oil to achieve energy independence, there was wide expectation that vast deposits thought to be off the Atlantic Coast States would be developed, as well as potential resources in the Gulf of Alaska.

In light of this potential bonanza, there was considerable Congressional concern that OCS leasing should take place in a competitive environment, and that the public resources be developed with the public receiving a fair share of its value. To this position was added the interest of the coastal States in buffering the effects of development. These two issues resulted in legislative endeavors starting shortly after the Nixon order, but it was not until 1978 that an amendment to the OCS leasing system was passed. Ironically, by that time the oil and gas producing potential of the Atlantic coast region had declined sharply.

Evolution of OCS Legislation

In the 93rd Congress, action on OCS was restricted to the Senate. A bill reported by the Interior and Insular Affairs Committee would have required the Secretary of the Interior to set up a 10-year leasing program to provide orderly devleopment of all available off-shore lands for development by 1985. It would have restricted extension permits for non-producing leases, and would have supplemented the cash-bonus-plus-royalty bidding system with a profit-sharing system under which the Government would receive at least 30 percent of profits from leases. The bill as passed by the Senate in September 1974 also provided for a Coastal States Fund to assist States in funding programs to deal with onshore impacts of OCS leasing.

Senate passage of the OCS bill came too late for it to be considered by the House, but the 94th Congress resumed the debate. The coastal States' environmental and economic impact concerns were met during the 94th Congress in the Coastal Zone Management Amendments Act of 1976 (P.L. 94-370, 90 Stat. 1013), but the leasing proposals failed to pass after a conference compromise was rejected in the House. The major issue in controversy was a feature of the Senate-passed version authorizing the Secretary of the Interior to carry out exploration of potential resources before offering them for lease.

The 95th Congress considered the OCS issue in the form of three bills: the House and Senate Committee bills and an industry-supported House bill.

The large oil and marine service companies opposed any changes in the 1953 OCS law. They argued that new provisions were not needed, because of administrative regulations adopted under existing law. They were particularly opposed to provisions in the Committee bills aimed at increasing competition in leasing.

The existing system required payment of cash bonuses by winning bidders prior to exploratory drilling, a capital-intensive process that was most advantageous to companies with large amounts of venture capital. In addition, even more capital is needed to conduct exploratory drilling and eventual development. The concern was that smaller, independent oil companies were being denied a full opportunity to benefit from the development of Federal OCS resources. Proponents of change suggested that a new system of leasing could increase competition while simultaneously increasing revenues to the Government. To achieve these ends, they proposed that the Government conduct prior exploration so that even small companies would know the potential of a given tract prior to the lease sale. They also proposed alternative leasing systems which would require less up-front capital expenditure in the form of bonus bids.

The oil industry opposed the alternative leasing systems on the basis that bonus bids were more likely to ensure full development of any discovered resource, whereas higher royalties or very large profit-sharing payments might discourage production of marginal wells. It was also especially opposed to the idea of Federal exploration because, in the words of the American Petroleum Institute, it would "permit direct involvement of the Federal Government in wildcat drilling for offshore oil and gas, thus opening the door to the creation of a Federal Oil and Gas Corporation." Opposition to Federal exploration also arose from those who were reluctant to see the Government risk large amounts of money on drilling that might not yield any oil. Such risk capital, they argued, is more efficiently created by the private sector.

The bill that finally emerged from conference in 1978—the Outer Continental Shelf Lands Act Amendments (P.L. 95-372, 92 Stat. 629)—included alternative leasing systems, but lacked the provisions for mandatory exploratory drilling by the Federal Government. The alternative leasing systems included a bonus bid with variable royalty rates, and a bonus bid with a fixed share—a minimum of 30 percent—of net profits. For five years following enactment DOE was required to use alternative bidding procedures for 20 percent to 60 percent of the total area offered for leasing. For the period 1978 to 1982, the actual proportion was about 30 percent.

OCS Developments Since Passage

Oil industry interest in leasing OCS tracts has slackened in recent years, largely because of the sharp decline in world oil prices since the 1981 peak, but also because of disappointing drilling results in the frontier areas.

For the past seven years (Fiscal Years 1982 through 1988), Congress has enacted moratoria through provisions in the Interior Department appropriations bills, which have prevented the Interior Department from leasing certain OCS areas. The specific areas covered by the moratoria have varied from year to year, but generally they have been off New England and southern California.

Onshore Leasing Amendments

Leasing of oil and gas resources on Federal land onshore has considerably less impact than OCS leasing because most onshore oil resources are on private or State land. Federal onshore leasing is carried out through a different system than that used for OCS lands. Prior to passage of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (part of the Omnibus Budget Reconciliation

Act, P.L. 100-203, 101 Stat. 1330), the system was governed by the Mineral Leasing Act of 1920 (P.L. 66-146, 41 Stat. 437).

Under the old system, rights to develop Federal oil and gas resources were leased competitively if the area leased was within a known geological structure of a producing oil and gas field, but noncompetitively, either through over-the-counter sales or under a lottery program called SIMO, if not. The lottery program was developed to provide fairness and ease of use, but it had long been criticized for failing to capture a fair return on the resources for the Federal Government, and for being victim of fraudulent practices.

In the 99th Congress, legislation to lease most but not all onshore Federal oil and natural gas prospects by competitive bid was reported by the Senate Energy Committee and passed by the Senate. It failed to pass the House, however, because of a dispute over efforts to include environmental protection provisions in the legislation.

The 100th Congress reached agreement on a revision of the onshore leasing system. Under the new system, all lands are to be leased competitively under auctions to be held not less than quarterly. Lands that receive no bid or bids lower than the national minimum ($2 per acre for the first two years after enactment, to be adjusted later as necessary) can be leased noncompetitively. If they are not leased during a period of 2 years, they must go through the competitive leasing cycle again.

SURFACE MINING CONTROL AND RECLAMATION

Background

Prior to Federal legislation, surface mining regulation was conducted at the State level. For various reasons, there grew to be significant differences in both the stringency of these State laws and their enforcement. Some States, particularly those in the West where surface mining was a more recent phenomenon, tended to have much more stringent laws, while some of the Eastern States, where the mining industries were older and well established, had laws that were more lenient and less rigorously enforced.

Enforcement was truly a significant problem in some of the Eastern States. Very often, a small and short-staffed State agency sought to regulate a large, well-established industry. Inadequate numbers of field personnel made it difficult to inspect all the mines in a State regularly and frequently. As a consequence, inspections were superficial, infrequent, or, very often, simply not conducted. When citations were issued, they were often ignored since many States lacked adequate mechanisms for penalizing violators. Likewise, there are recorded instances where State inspectors were threatened or actually assaulted. Moreover, the wages of State inspectors, because of budget constraints, were significantly less than those paid by industry. Proponents of Federal regulation charged that, all too often, many inspectors succumbed to favors from the very mine operators they were supposed to regulate.

The problem of disparate enforcement was not the sole justification for uniform, minimum standards for mining and reclamation. Environmental problems did not respect State boundaries. For example, acid mine drainage from abandoned mines and silt from active surface mines in one State could adversely affect watersheds and drainage basins in other States. In such instances, the affected States downstream had little or no recourse in reducing or eliminating the causes.

Furthermore, operators in States with rigorous laws and enforcement were operating at a significant economic disadvantage to their counterparts in neighboring States with less vigorous programs. If operators in one State produced coal for $5 per ton and were not required to reclaim, while operators in the neighboring State (requiring reclamation) produced coal for the same $5 plus $1 for reclamation, the operators in the first State had a distinct advantage over their competition. Theoretically, producers of coal in the state without reclamation requirements could sell at the general market price with more profit per ton.

Energy Crisis

The inequities and insufficiencies in State surface mining regulation led to pressure for uniform Federal treatment. They were not, however, sufficient incentive for a new Federal Law. Legislation for mined land reclamation had been proposed and rejected in Congress since the early 1940's. The necessary impetus was supplied by the confluence of the environmental movement and the energy shortage during the early 1970s.

At the height of the energy shortfall, the spotlight fell on coal as the cheapest and most available alternative to imported oil. Many in and out of the Federal Government criticized the long-standing policy importing oil for electric power generation when the United States was the "Saudi Arabia" of coal. Clearly, the United States had to resort to coal through policies of increased production, and, if necessary, mandated conversion of existing oil-burning facilities. Numerous reports focusing on energy independence were issued by the Executive and Legislative branches. It was predicted that within a few years annual coal production would double to 1.2 billion tons, and the coal industry geared up accordingly. This burgeoning interest set the stage for an aggressive push in surface mine regulation.

Given the extent of land disturbed by past mining, environmental interests by simple arithmetic calculated the area of land that would probably be disturbed in meeting the proposed energy goals. The potential for land disturbance was significant in regions that had already taken on the character of "national sacrifice" areas. The magnitude of anticipated production certainly strengthened the argument for minimizing or eliminating any further environmental damage. Besides, if coal were to become the Nation's basic fuel, it was argued, the industry could well afford to pay for past abuses and to avoid current and future ones.

Development of Federal Law

The need for Federal legislation had been established, but the degree of reclamation that would be required had yet to be determined. From the 93d to the 95th Congresses, extensive Congressional hearings were held in Washington and many other cities to measure the extent of the environmental problem and the economic impact of effective reclamation rules on the industry.

As a result of these hearings and intense Congressional interest, numerous bills were introduced on surface mining regulation. In the 93d Congress alone, 19 bills were introduced that ran the whole gamut of regulation. The less stringent bills would have required little more in performance from the operators than the State laws they were intended to replace. The most stringent proposals would have eliminated surface mining altogether. The debate on the issue was both spirited and extensive.

Throughout its deliberations, however, Congress seemed to agree on two fundamental principles. First, surface coal mining should be considered an interim land use; second, land mined for coal should be restored to a condition capable of supporting its pre-mining uses.

Legislation—93d Congress

Although the legislation was not enacted until the 95th Congress, much of the legislative spadework was done earlier. Much of the Committee's action took place during the 93d Congress.

The major bill on surface mining reclamation and control to emerge from the Senate during the 93d Congress was S. 425. This committee bill was sponsored by Senator Henry J. Jackson. The bill would have established within the Department of the Interior an Office of Reclamation and Enforcement which would have remained independent of the Department's existing agencies. S. 425 would have exempted mineral extraction conducted by the landowner for noncommercial uses or where the activity would have disturbed less than 2 acres of land. It would also have established prerequisites for a Federally approved State program, the most important of which is a State permit and a reclamation plan which were to be submitted to the Secretary of the Interior within 12 months after promulgation of Federal regulations. The Secretary would have been required to approve or disapprove the program of each State at least 4 months after its submission. If the program was disapproved, the State would have had 60 days to resubmit a revised program. If a State failed to submit its own program by the end of the 12-month deadline, failed to resubmit a revised program in time, or failed to enforce its approved program, the Secretary could have intervened and implemented a Federal program in its place. The Federal substitute program would have given the Secretary "exclusive jurisdiction" over the regulation of surface mining in the State.

S. 425 provided a timetable for obtaining permission to conduct surface mining operations pursuant to the Act under either the approved State program or the Federal program in the event the State program was not approved. The important feature of this provision was the prohibition of surface mining if no valid permit had been granted, beginning 22 months after enactment.

The one environmental provision receiving more criticism than any other was the requirement for restoration of the original contour of the land after mining. The rationale for this requirement was that when the original contour of the land is restored, it is more likely that the land will be able to support the uses that preceded the mining. Highwalls, spoil banks, and depressions would have been prohibited by this provision. The Senate Interior Committee in its report on the bill stated that it felt strongly that backfilling to original contour was essential to good reclamation.

The most controversial bill to be introduced in the House on the subject of surface mining was H.R. 11500, a longer and generally more restrictive bill than S. 425. The House bill would have placed severe restrictions on the land available for mining because of its prohibition of mining on steep slopes. It provided for a great deal of environmental protection, which drew strong criticism from the mining industry. These limitations would probably have directed future mine development away from surface mining and toward deep mining.

S. 425 was passed on October 9, 1973 and H.R. 11500 on July 25, 1974. On December 3, 1974, the conference deadlock over mining of Federal coal in areas where the Federal Government is not the owner of the surface of the land involved was broken by a compromise offered by Senator J. Bennett Johnston (D., LA). The amendment limited the "windfall profits" of surface owners to $100 per acre, thus providing more of an incentive for operators to remove the coal. The provision requiring the permission of the surface owner before strip mining could take place, however, was retained. The compromise bill, passed shortly before the close of the Second Session, was vetoed by the President Gerald R. Ford because he felt that it was incompatible with his program for large-scale coal development.

Legislation—94th Congress

Federal regulation of surface mining of coal continued to be an important legislative topic during the 94th Congress. Shortly after the beginning of the first session, two major bills (S. 7 and H.R. 25) were introduced which were identical to the compromise version of S. 425 vetoed by the President during the second session of the 93d Congress. Like their predecessor, these bills would have required the establishment of an Office of Surface Mining Reclamation and Enforcement within the Interior Department. Furthermore, they would have required the establishment of an abandoned mines reclamation fund which would have been replenished from a coal tax imposed upon both underground and surface mined coal.[1] Also included in the bills were provisions which would have established a grant program to fund mining and minerals resources and research institutes to "train qualified personnel in mine-related fields and conduct research related to mining technology," to create an Indian lands program, and to establish criteria for determining the suitability of surface mining on selected lands under any conditions.

The most controversial sections of all the surface mining bills continued to be those which established the actual standards for the reclamation of mined land. Included in these were provisions that required the restoration of the original contour of mined lands, imposed relatively stringent requirements for the surface mining of lands with slopes greater than 20 degrees, established revegetation requirements, and determined the degree of integrity which should be accorded hydrologic regimes in mining areas.

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[1] The tax on coal produced by the surface mining method would have been greater than that on coal produced by underground mining methods.

Shortly after his veto of S. 425 late in the second session of the 93d Congress, President Ford had transmitted to the House and the Senate a list of his specific objections to the legislative proposal, along with noted significant differences in the final version of the bill and Administration proposals on the subject. In the 94th Congress, attempts were made to meet these objections. The list of objections was divided into two categories: "critical changes" and "other important changes." The first category included the following objections:

Critical Changes

1. *Citizen suits.*—S. 425 would allow citizen suits against any person for a "violation of the provisions of this Act". . . . Citizen suits are retained in the Administration bill, but are modified . . . to provide for suits against (1) the regulatory agency to enforce the Act, and (2) mine operators where violations of regulations or permits are alleged.

2. *Stream siltation.*—S. 425 would prohibit increased stream siltation—a requirement which would be extremely difficult or impossible to meet and thus could preclude mining activities. In the Administration's bill, this prohibition is modified to require the maximum practicable limitation on siltation.

3. *Hydrologic disturbances.*—S. 425 would establish absolute requirements to preserve the hydrologic integrity of alluvial valley floors—and prevent offsite hydrologic disturbances. . . . In the Administration's bill, this provision is modified to require that any such disturbances be prevented to the maximum extent practicable so that there will be a balance between environmental protection and the need for coal production.

4. *Ambiguous terms.*—In the case of S. 425, there is great potential for court interpretations of ambiguous provisions which could lead to unnecessary or unanticipated adverse production impact. The Administration's bill provides explicit authority for the Secretary to define ambiguous terms so as to clarify the regulatory process and minimize delays due to litigation.

5. *Abandoned land reclamation fund.*—S. 425 would establish a tax of 25 cents per ton for underground mined coal and 35 cents per ton for surface mined coal to create a fund for reclaiming previously mined lands that have been abandoned without being reclaimed, and for other purposes. . . . The Administration bill would set the tax at 10 cents per ton for all coal . . . which would be ample.

Under S. 425 funds accrued from the tax on coal could be used by the Federal Government (1) for financing construction of roads, utilities and public buildings in any area where coal mining activity is expanding. . . . The Administration bill does not provide authority for funding facilities.

6. *Impoundments.*—S. 425 could prohibit or unduly restrict the use of most new or existing impoundments, even though constructed to adequate safety standards. In the Administration's bill, the provisions on location of impoundments have been modified to permit their use where safety standards are met.

7. *National forests.*—S. 425 would prohibit mining in the national forests—a prohibition which is inconsistent with multiple use principles and which could unnecessarily lock up 7 billion tons of coal reserves. . . . In the Administration bill, this provision is modified to permit the Agriculture Secretary to waive the restriction in specific areas when multiple resource analysis indicates that such mining would be in the public interest.

8. *Special unemployment provisions.*—The unemployment provision of S. 425 (1) would cause unfair discrimination among classes of unemployed persons, (2) would be difficult to administer, and (3) would set unacceptable precedents including unlimited benefit terms, and weak labor force attachment requirements. This provision of S. 425 is inconsistent with Public Law 93-567 and Public Law 93-572 which were signed into law on December 31, 1974, and which significantly broaden and lengthen general unemployment assistance. The Administration's bill does not include a special unemployment provision.

The second category included the following objections:

Other Important Changes

1. *Antidegradation.*—S. 425 contains a provision which, if literally interpreted by the courts, could lead to a nondegradation standard similar to that experienced with the Clean Air Act . . . Changes are included in the Administration bill to overcome this problem.

2. *Reclamation fund.*—S. 425 would authorize the use of funds to assist private landowners in reclaiming their lands mined in past years. Such a program would result in windfall gains to the private landowners who would maintain title to their lands while having them reclaimed at Federal expense. The Administration bill deletes this provision.

3. *Interim program timing.*—Under S. 425, mining operations could be forced to close down simply because the regulatory authority had not completed action on a mining permit, through no fault of the operator. The Administration bill modifies the timing requirements of the interim program to minimize unnecessary delays and production losses.

4. *Federal preemption.*—The Federal interim program role provided in S. 425 could (1) lead to unnecessary Federal preemption, displacement or duplication of State regulatory activities, and (2) discourage States from assuming an active permanent regulatory role . . . In the Administration bill, this requirement is revised to limit the Federal enforcement role during the interim program to situations where a violation creates an imminent danger to public health and safety or significant environmental harm.

5. *Surface owner consent.*—The requirement in S. 425 for surface owner's consent would substantially modify existing law by transferring to the surface owner coal rights that presently reside with the Federal Government. S. 425 would give the surface owner the right to "veto" the mining of Federally owned coal or possibly enable him to realize a substantial windfall. In addition, S. 425 leaves unclear the rights of prospectors under existing law. The Administration is opposed to any provision which could (1) result in a lock up of coal reserves through surface owner veto or (2) lead to

windfalls. In the Administration's bill surface owner and prospector rights would continue as provided in existing law.

6. *Federal lands.*—S. 425 would set an undesirable precedent by providing for State control over mining of Federally owned coal on Federal lands. In the Administration's bill, Federal regulations governing such activities would not be preempted by State regulations.

7. *Research centers.*—S. 425 would provide additional funding authorization for mining research centers through a formula grant program for existing schools of mining. This provision establishes an unnecessary new spending program, duplicates existing authorities for conduct of research efforts already supported by the Federal Government. The provision is deleted in the Administrative bill.

8. *Prohibition on mining in alluvial valley floors.*—S. 425 would extend the prohibition on surface mining involving alluvial valley floors to areas that have the potential for farming and ranching. This is an unnecessary prohibition which could close some existing mines and which would lock up significant coal reserves. In the Administration's bill, reclamation of such areas would be required, making the prohibition unnecessary.

9. *Potential moratorium on issuing mining permits.*—S. 425 provides for (1) a ban on the mining of lands under study for designation as unsuitable for coal mining, and (2) an automatic ban whenever such a study is requested by anyone. The Administration's bill modifies these provisions to insure expeditious consideration of proposals for designating lands unsuitable for surface coal mining and to insure that the requirement for review of Federal lands will not trigger such a ban.

10. *Hydrologic data.*—Under S. 425, an applicant would have to provide hydrologic data even where the data are already available—a potentially serious and unnecessary workload for small miners. The Administration's bill authorizes the regulatory authority to waive the requirement, in whole or in part, when the data are already available.

11. *Variances.*—S. 425 would not give the regulatory authority adequate flexibility to grant variances from the lengthy and detailed performance specifications. The Administration bill would allow limited variances—with strict environmental safeguards—to achieve specific post-mining land uses and to accommodate equipment shortages during the interim program.

12. *Permit fee.*—The requirement in S. 425 for payment of the mining fee before operations begin could impose a large "front end" cost which could unnecessarily prevent some mine opening or force some operators out of business. In the Administration's bill, the regulatory authority would have the authority to extend the fee over several years.

13. *Preferential contracting.*—S. 425 would require that special preference be given to reclamation contracts to operators who lose their jobs because of the bill. Such hiring should be based solely on an operator's reclamation capability. The provision does not appear in the Administration's bill.

14. *Any class of buyer.*—S. 425 would require that lessees of Federal coal not refuse to sell coal to any class of buyer. This could interfere unnecessarily with both planned and existing coal mining

operations, particularly in integrated facilities. This provision is not included in the Administration's bill.

15. *Contract authority.*—S. 425 would provide contract authority rather than authorizing appropriations for Federal costs in administering the legislation. This is unnecessary and inconsistent with the thrust of the Congressional Budget Reform and Impoundment Control Act. In the Administration's bill such costs would be financed through appropriations.

16. *Indian lands.*—S. 425 could be construed to require the Secretary of the Interior to regulate coal mining on non-Federal Indian lands. In the Administration bill, the definition of Indian lands is modified to eliminate this possibility.

17. *Interest charge.*—S. 425 would not provide a reasonable level of interest charged on unpaid penalties. The Administration's bill provides for an interest charge based on Treasury rates so as to assure a sufficient incentive for prompt payment of penalties.

18. *Prohibition of mining within 500 feet of an active mine.*—This prohibition in S. 425 would unnecessarily restrict recovery of substantial coal resources even when mining of the areas would be the best possible use of the areas involved. Under the Administration's bill, mining would be allowed in such areas as long as it can be done safely.

19. *Haul roads.*—Requirements of S. 425 could preclude some mine operators from moving their coal to market by preventing the connection of haul roads to public roads. The Administration's bill would modify this provision.

In an effort to compromise with the Administration on an acceptable plan to regulate surface mining, the Congress clarified, modified, or eliminated completely six of the eight criticisms of the legislation of the 93d Congress. Furthermore, with respect to the remaining 19 proposed changes, the legislators amended 10 in order to respond to Administration objections.

Ultimately, the House and Senate agreed to a modified version of H.R. 25 which incorporated to a substantial degree the criticisms of the President about the surface mining bill in the 93d Congress. The conference report on H.R. 25 was agreed to in the House by a vote of 193 to 115 and in the Senate by unanimous consent.

As one Member stated during floor consideration of the conference report:

> In the report before us, the conferees have offered a package which meets a majority of those objections which caused President Ford to pocket veto the measure. The areas which have been substantially altered are citizen's suits, hydrologic distrurbances, stream siltation, alluvial floor disturbance provisions, the mine reclamation fees, and the elimination of the odious special unemployment benefits. Improvements have also been made in reclamation fees and use of the reclamation fund and violation of cessation orders.
>
> While H.R. 25 is not perfect legislation, it does appear to be the best bill that we can get. I will certainly vote for it and I hope that others will support it also.

Although some Senators also felt that the legislation was not a universal solution to the problems associated with Federal regulation of surface mining, many agreed with one Member who said that "many of the reclamation provisions are necessary to protect our environment and . . . it accomplishes goals all of us think are important."

On May 20, 1975, in spite of the comfortable margin by which the legislation passed in Congress, the President vetoed H.R. 25. In his veto message, the President stated that he was unable to sign this bill because:

1. As many as 36,000 people would lose jobs when unemployment is already too high.
2. Consumers would pay higher costs—particularly for electric bills—when consumer costs are already too high.
3. The Nation would be more dependent on foreign oil—when we are already overly dependent and dangerously vulnerable.
4. Coal production would be unnecessarily reduced—when this vital domestic energy resource is needed more than ever.

Furthermore, the President indicated that H.R. 25 did not strike a balance between environmental objectives and U.S. energy and economic goals. It was the Administration's opinion that somewhere between 40 and 162 million tons of coal production would be lost during the first full year of implementation of the bill. Acknowledging that the Administration's own legislative proposal would have cost the Nation between 33 and 80 million tons of annual coal production, the President stated, "Even though these losses would have been substantial, we could have accepted them if Congress had enacted the comprehensive energy program I proposed. But now the potential losses of H.R. 25 are intolerable."

This statement raises the question of whether the Administration was concerned solely with the provisions of the surface mining bill and their potential impact on the mining industry or whether the bill was held hostage in return for Congressional acceptance of the Administration's energy proposals.

Shortly after the President vetoed H.R. 25, Congress provided an opportunity for Administration representatives to justify the President's reasons for refusing to sign the legislation. These hearings, held on June 3, 1975, were sponsored jointly by the House Interior Subcommittees on Energy and the Environment, and Mines and Mining. In addition, members of the Senate Interior Committee's Subcommittee on Mining, Minerals and Fuels were invited to participate in the proceedings.

During the time between the veto of the surface mining bill and the justification hearings, a metamorphosis took place in the underlying issues related to the topic of Federal regulation of surface mining of coal. Throughout consideration of the bill, the emphasis of the debate was focused on whether or not the bill would result in lost coal production and would be compatible with a comprehensive energy policy for the United States, especially in view of increasing imports of Middle East oil supplying a seemingly insatiable demand for energy. Extensive consideration was given in order to compromise with the White House and provide a piece of legislation that would satisfy most of its demands for prudent regulation.

Suddenly, however, the issue became not one of potential coal production losses but one of the validity of the Administration's production loss estimates, and more important, whether the estimates were made in good faith.

In his formal statement to the Joint Committees, FEA Administrator Frank Zarb elaborated on the total coal loss estimates of 40 to 162 million tons if H.R. 25 were passed, as predicted by an earlier Bureau of Mines report. The loss categories he described included losses from affected "small mines," steep slopes, siltation and aquifier protection, and alluvial valley floors. Mr. Zarb said:

> In preparing our estimates for small mines, we have classified as "small" those mines with annual production of 50,000 tons or less. As noted by the Council on Environmental Quality in its report to Congress in 1973, as that level of production, a mine's capital availability, cash flow and technical resources are limited. As a result, operators of this size would simply not be able to bear the front-end costs of applying for and obtaining permits to mine, and would have great difficulty meeting the increased reporting requirements under H.R. 25.
>
> Faced with this inability to obtain a permit and difficulty of meeting those requirements, many such mines would be required to close. Our estimate is that at least 40 percent, and possibily all of projected production from small mines would be precluded under H.R. 25, with principal impact in the East. As the Council on Environmental Quality pointed out, such mines account for as much as 56 percent of production in the Appalachian States. I might also note here that these losses attributed to small mines, which I have just mentioned, are not included in the loss estimates that I will be discussing during the remainder of my testimony.
>
> *Steep slopes, siltation and aquifer protection*
>
> With respect to provisions concerning steep slope, siltation and aquifer protection, we have estimated losses ranging from seven to 44 million tons in the first full year of implemenation. Strict interpretation and application of H.R. 25's steep slope provisions alone would result in loss of production from virtually every mine operation on slopes in excess of 20 degrees—loss totally from seven to 25 million tons.
>
> Much of this loss is, in our view, unnecessary. With appropriate environmental restrictions, authority to grant some variances from the absolute requirements of H.R. 25 could be allowed, greatly reducing production losses without danger to the environment.
>
> The aquifer protection provided by H.R. 25 is also set forth in near-absolute and ambiguous terms. Consequently, a literal interpretation of these provisions could result in termination of all production near aquifer-fed water sources. We estimate that nine million tons of actual and projected production is subject to such an interpretation.

Allowing individual operations to accommodate individual circumstances at individual mine sites could greatly reduce the losses that these provisions might entail, without serious negative environmental effects.

Earlier versions of this legislation prohibited absolutely any increase in normal siltation levels during or after mining operations. Congress recognized the impossibility of achieving this result and modified the siltation provisions of H.R. 25 accordingly.

However, a serious problem still remains. As now drafted, the bill would require operators to use any technology that exists and that could require operators to apply technology that, although theoretically available, would be prohibitively expensive, to prevent even relatively insignificant siltation. Here again, the bill's lack of flexibility could result in mine closures where environmental concerns could, in fact, be accommodated with continued production of the Nation's coal resources.

Alluvial valley floors

Finally, we estimate that the various provisions of H.R. 25 related to alluvial valley floors would cost us from 11 to 66 million tons of coal production during its first full year of implementation. It should be noted that what we are dealing with here is a possible ban on the mining of coal in certain areas. We are not dealing only with reduced production levels, or closures of mines which might afterwards be reopened. We are talking about locking away billions of tons of coal—placing it permanently off-limits for any and all surface mining. And our experts tell us that in virtually all the geological areas involved, surface mining is the only feasible method of extraction. Thus, the effect of these provisions will be permanent losses, both of production and of reserves.

As I suggested earlier, the fairly wide range of these estimates derives from the fact that our lawyers are unable to predict how regulatory authorities or courts would interpret H.R. 25 and its legislative history.

We cannot say, for example, whether a court would conclude that an area such as the Powder River Basin is "undeveloped range land," and thus not subject to the bill's prohibitions, or whether it would consider such an area to be "potential" farming or ranching land and thus off-limits for surface mining. Under the first interpretation, a great proportion of the Powder River Basin would be covered by the exclusion and open for mining. Under the latter interpretation, our experts tell us that a virtual ban on the mining of Great Western coal deposits could result.

This question, although critically important, cannot be answered on the face of the bill. Nor does its legislative history solve the problem.

But this is only one difficulty of many in interpreting the language of H.R. 25. In addition, it would prohibit mining that would have an adverse effect on some actual

> or potential farming or ranching operations that are themselves located on such floors. The impact of this language is even more difficult to assess. Proper interpretation would depend upon the individual geologic and hydrologic conditions of a given proposed operation. H.R. 25 places the burden of providing the absence of any such adverse impact upon the applicant for a permit. Proving a negative is always difficult, and, under H.R. 25, the negatives which must be proved could present insurmountable hurdles for an applicant.
>
> Based upon all these considerations, we estimate a production loss attributable to alluvial valley floor provisions ranging from 11 to 66 million tons and a reserve loss at least 1000 times greater—that is, a loss of from 17 to 66 billion tons of coal, permanently locked into the ground.
>
> Our experts have reviewed these figures in detail. They have made on-site inspections and have analyzed closely the provisions of the bill. We consider these loss estimates, in fact, to be conservative.

The Administration representatives were questioned on many of the coal production and job loss estimates they made. Members of the various Committees involved in the proceedings pointed out that exaggerated assumptions must have been involved in arriving at the figures propounded by the Bureau of Mines and the Interior Department. Furthermore, many Committee members felt that the Administration had drastically shifted its position on coal surface mining regulations since the end of the 93d Congress.

In an effort to determine the number of mines that would have been put out of business because of the bill, the Committee members asked the Administration witnesses to provide a list of mines that would have to cease operations because of the legislation. In response to this request, Dr. Thomas Falkie, Director of the Bureau of Mines, agreed to supply the list during the afternoon session, but such a list was never presented by the Administration, even after repeated committee requests. Furthermore, many of the Committee members felt that for a coal production loss to total 162 million tons (approximately one-fourth of production), the Administration would have to close mines rather than relocate them and that in all litigation arising from the legislation, the courts would rule in favor of those opposed to coal mining.

The Administration had claimed that small miners would not be able to comply with the permit provisions of the bill and would therefore be forced out of business. One member asked Dr. Falkie, "Is it not an inherent, basic, fundamental assumption of your calculation (on lost production) that if a small miner or a miner on steep slopes could not mine under this law, that in no case could that miner go to another location where he could comply with the law and mine new, additional coal?"

Dr. Falkie replied, "On our maximum set of assumptions, that is one of the assumptions made."

Responding to Dr. Falkie's answer, the same Member stated:

> I personally would challenge that, particularly with regard to these small mines. They open them up every

> week, every month. I would also call attention to the fact that we have phase-in procedures where adjustments and variances can be made while the operator is learning to comply with the new standards. It is completely unacceptable to me to suggest that to all of these 1,500 miners that they are not going to be able to find new sources of coal. All of them have projections ahead where they are getting ready for a new mine site when they finish up an old one.

Furthermore, it was pointed out that in instances were States had enacted surface mining laws, practically all the operators had found some way to comply with the new regulations and yet remain in business.

Further questioning by Members revealed that the Administration's methodology in arriving at the estimates of total coal production lost due to the enactment of H.R. 25 was highly questionable. In one case in particular, Dr. William Miernyk of the University of West Virginia later stated that one of his studies dealing with the effects of such legislation had been grossly misquoted by the Administration. This particular study was one of the keystones of the Administration's case against the bill. Also, at one point in the hearings, the witnesses openly admitted that the President would not even favor his own bill which was sent to the Congress early in the session.

During much of the proceedings, the witnesses emphasized that the potential range of lost production from the Administration's proposal was narrower than that of H.R. 25 because the language contained in this bill was more precise. Yet, at the same time, they asserted that the Administration's proposal was more workable because it provided the Secretary of the Interior more flexibility with which he could rule on individual mining situations.

On June 10, 1975, the House voted on whether to override the veto of H.R. 25. Although more Members voted in favor of the bill than had on initial passage, the veto was nonetheless sustained by a narrow, eight-vote margin (278 to 143).

During 1976, the issues related to the subject of surface mining regulation evolved again, but for a different reason. Opponents of Federal legislation began emphasizing the degree to which mining had already been regulated at the State level and claiming that this eliminated the need for Federal legislation. However, while a number of States had enacted new legislation regulating mining or have amended standing laws, numerous studies indicated that many of these State laws were not totally effective.

Surface Mining Legislation is Finally Enacted

Following four years of protracted debate and two Presidential vetoes, the stage was finally set at the beginning of the 95th Congress for the enactment of the surface mining legislation. Since legislation emerging from both the House and the Senate was similar in principal, some even characterized action during the 95th Congress as anti-climactic.

The two bills that emerged from Committees were S. 7 and H.R. 2. The low numbers accorded these bills bespoke of the high priority that both the House and Senate placed on the issue. Although the Senate version of the legislation (S. 7) has been characterized as less stringent than the House version (H.R. 2), the provisions of the bills were melded during conference and sent to a new Administration that had already expressed its intent to sign the legislation into law.

In concept, the new law, the Surface Mining Control and Reclamation Act of 1977 (P.L. 95–87, 91 Stat. 445) included the following major findings and requirements:

—It concluded that mining is an interim land use and that once coal is removed, the land be returned to a condition capable of supporting its pre-mining uses;

—It recognized the need for Nationwide uniform standards of reclamation;

—It recognized the differences in the regional character of mining and reclamation and concluded that the final authority for regulation should remain with the individual states, provided that their programs were consistent with the minimum Federal standards;

—It established a permitting procedure prior to the commencement of any mining;

—It required the posting of a performance bond sufficient to ensure reclamation by a third party in the event an operator failed to honor reclamation requirements;

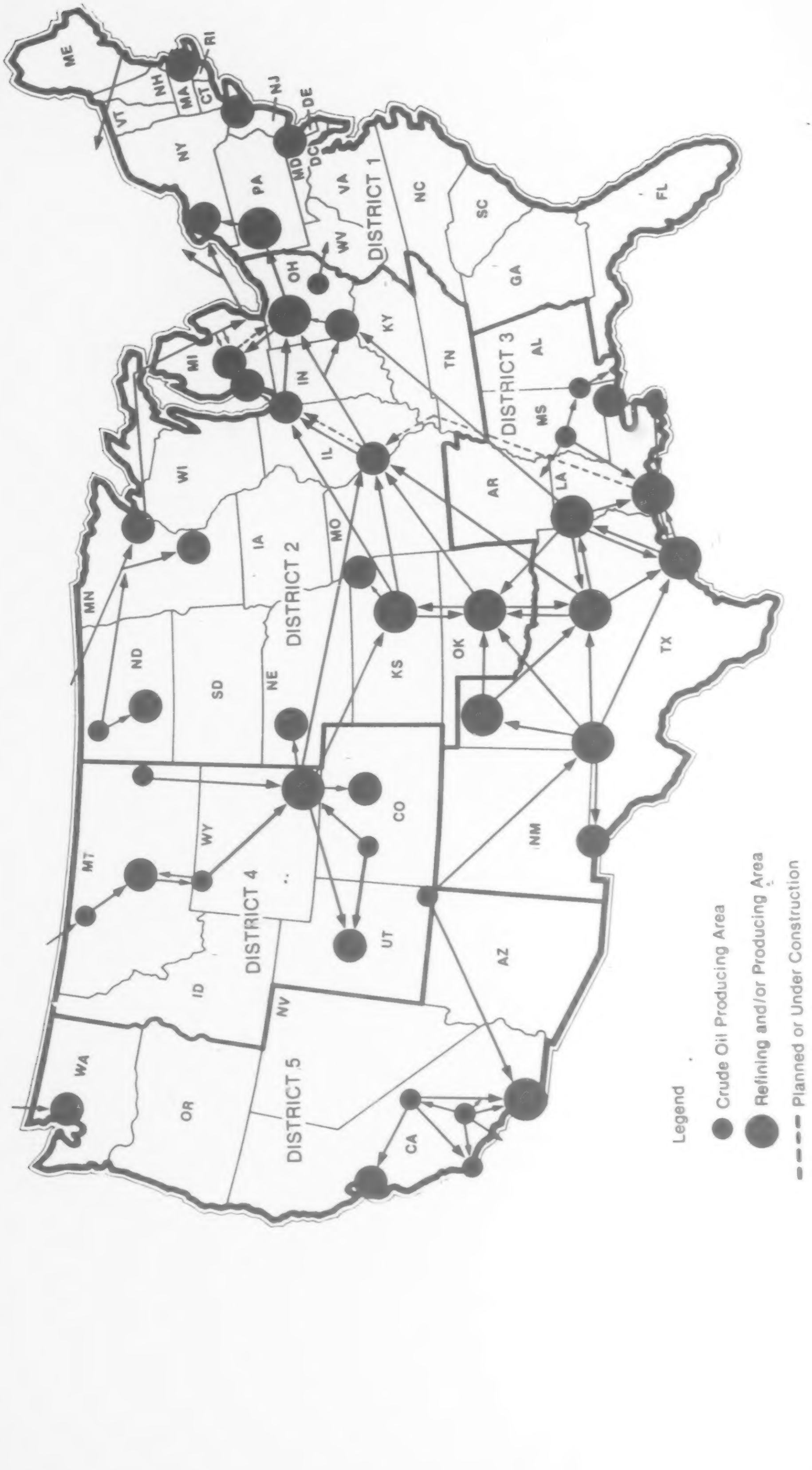
—It established a reclamation fund to reclaim pre-1977 abandoned mines;

—It established a mechanism for citizen involvement and suits in the case of operator violations.

Post-enactment Activities

The Office of Surface Mining (OSM) has had a turbulent infancy. The Agency came under fire numerous times for its implementation of the Act. Broad policy changes, based on the interpretation of the Act by different administrations, have resulted in indictments by both the mining industry and the environmental community. At one point, the Agency was cited as the most egregious example of over-regulation of an industry by Government, and efforts were made to disassemble some of its functions at the various regional offices. These policy shifts prompted the Senate and House to closely monitor the Agency's activities with numerous oversight hearings during the eleven years since the creation of OSM.

Although the controversy within the Agency appears to have subsided over recent years, there are many facets of OSM's function that remain controversial. Moreover, as the expiration of the abandoned mine land tax approaches in 1992, both House and Senate committees may very likely turn their attention to examining the merits of re-authorizing the program, which has generated funding sufficient to reclaim only a small fraction of eligible lands.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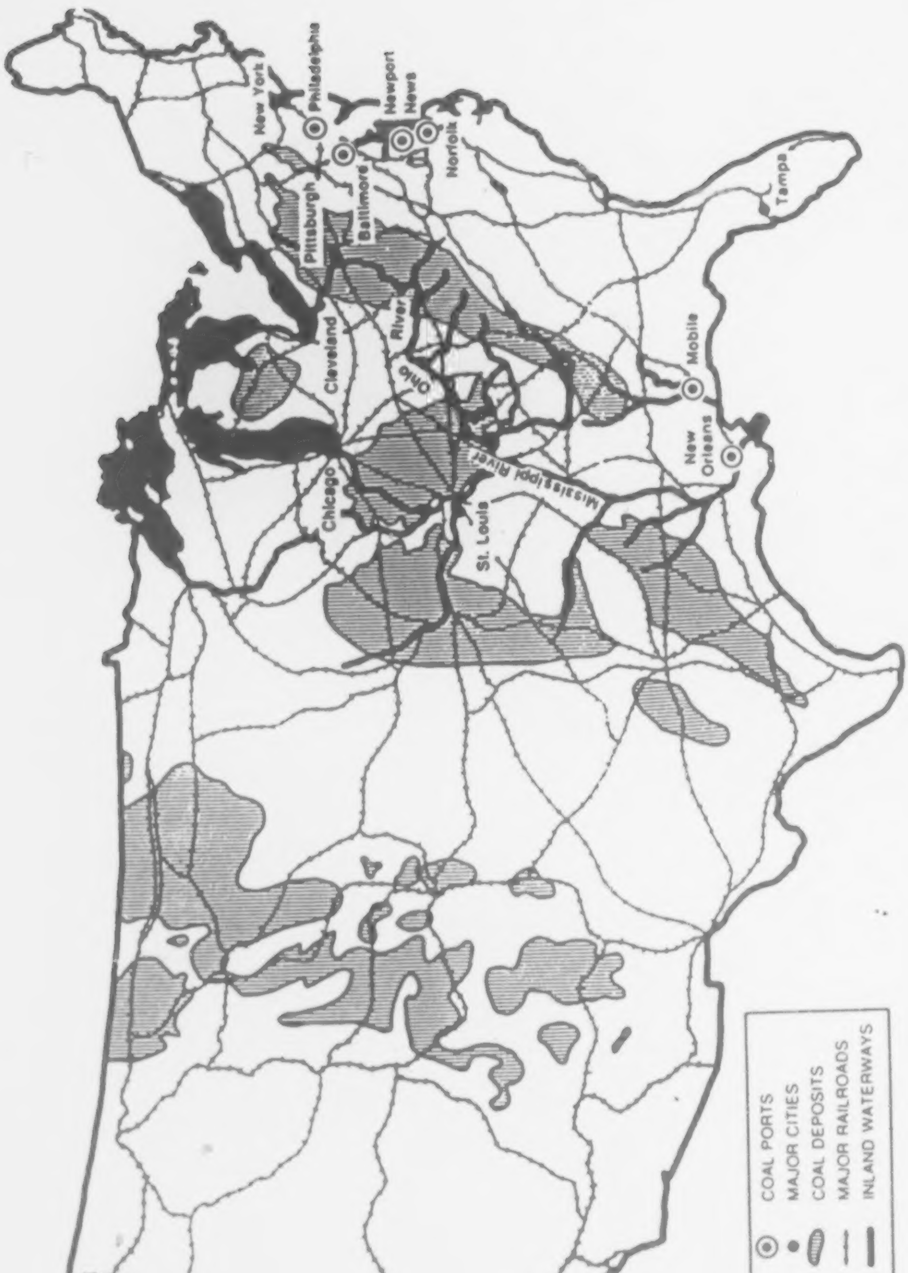
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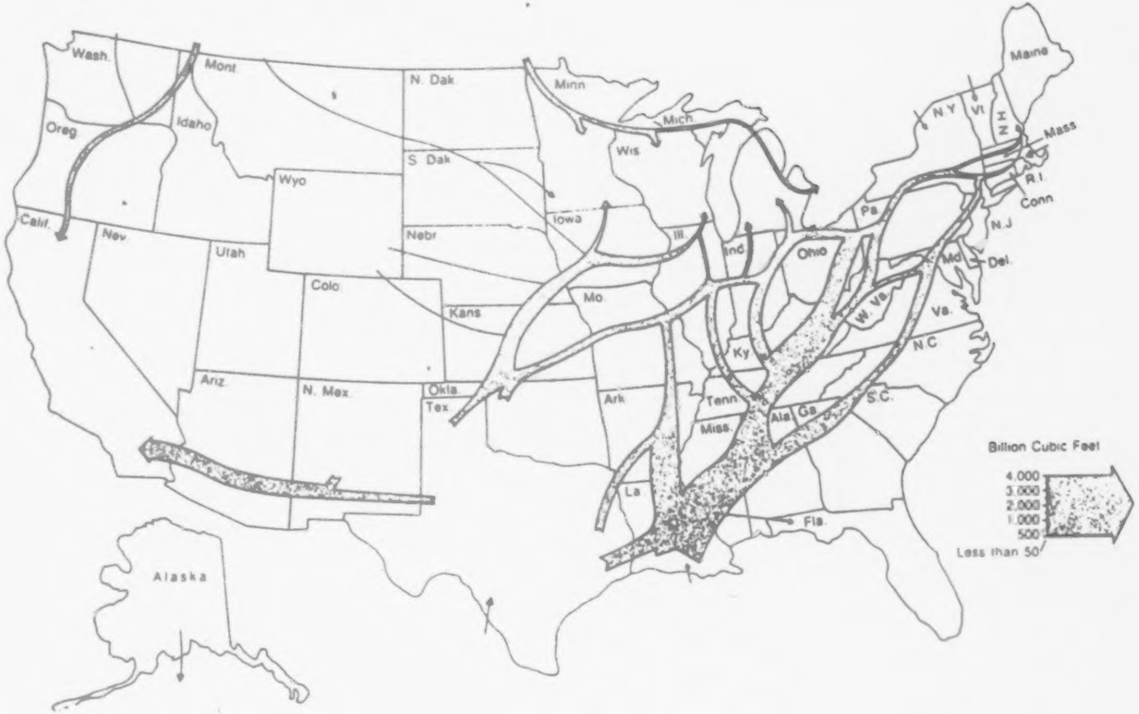
MAJOR CITIES
COAL DEPOSITS
MAJOR RAILROADS
INLAND WATERWAYS

Principal Interstate Natural Gas Flow Summary, 1987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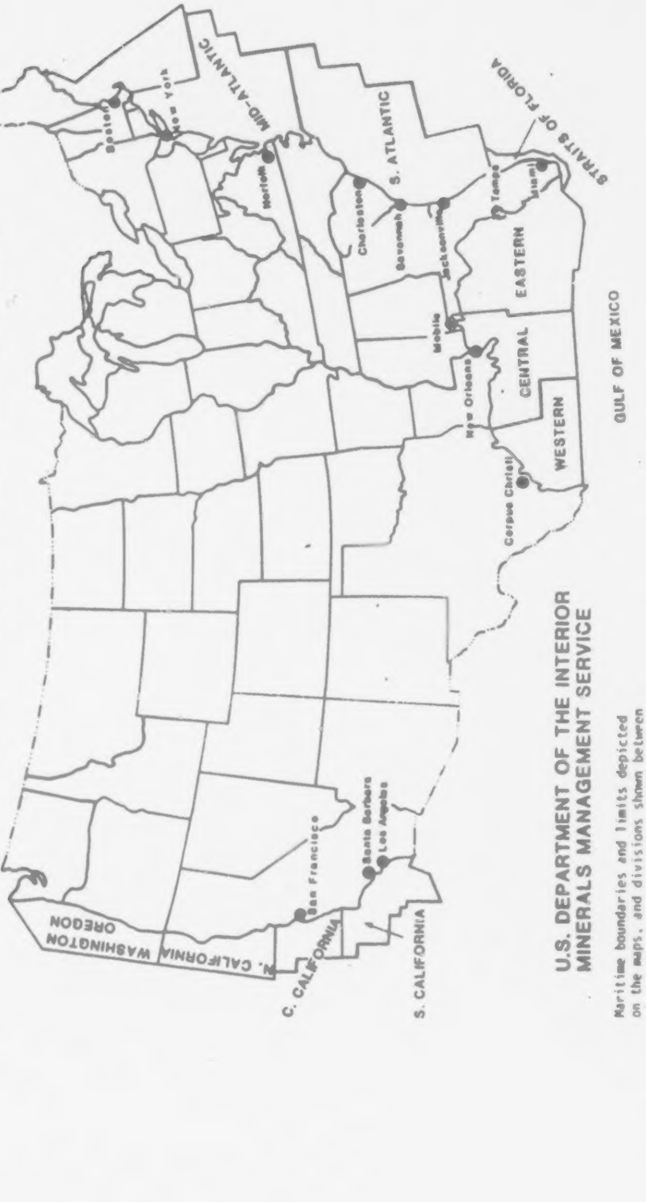
Ga
Fla
S.C.
N.C
Va.
W. Va
Pa
Md
Del.
N.J
N.Y
Vt
N.H
Mass
R.I.
Conn
Maine
Alaska
Billion Cubic Feet
4,000
3,000
2,000
1,000
500
Less than 50

Energy Information Administration/Natural Gas Annual 1987 Volume I

Map 1

OUTER CONTINENTAL SHELF PLANNING AREAS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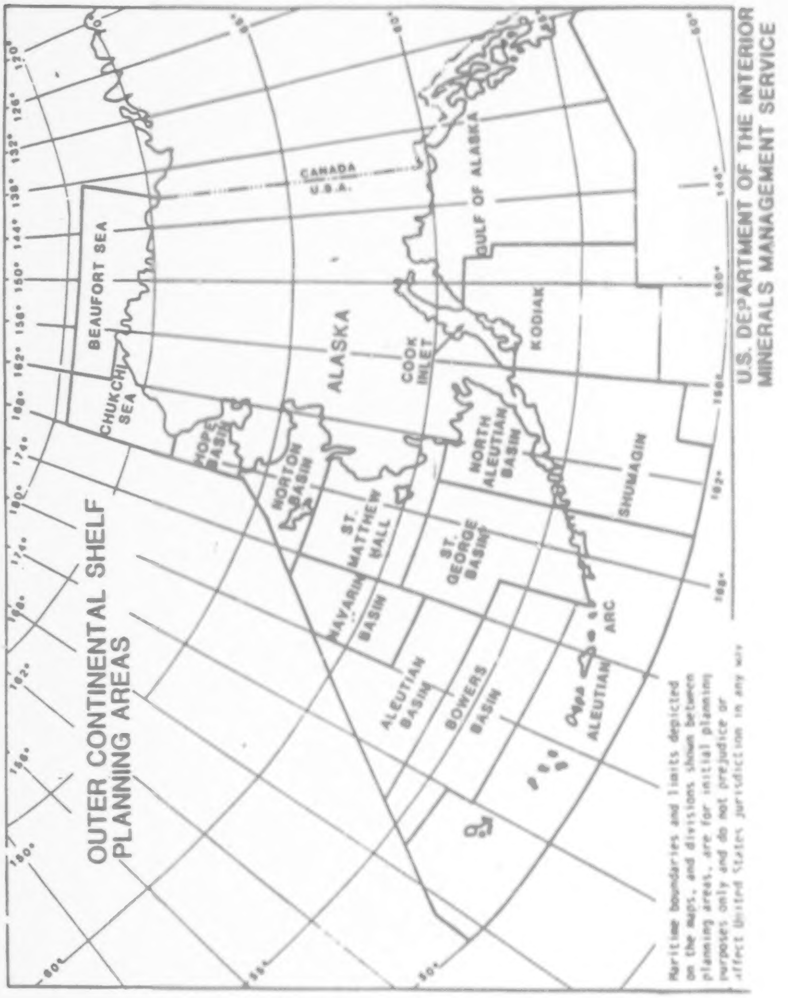
New Orleans
CENTRAL
WESTERN
Corpus Christi
GULF OF MEXICO
WASHINGTON
OREGON
N. CALIFORNIA
C. CALIFORNIA
San Francisco
Santa Barbara
Los Angeles
S. CALIFORNIA

U.S. DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Maritime boundaries and limits depicted on the maps, and divisions shown between planning areas, are for initial planning purposes only and do not prejudice or affect United States jurisdiction in any way

Map 2



OUTER CONTINENTAL SHELF PLANNING AREAS

U.S. DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Maritime boundaries and limits depicted on the maps, and divisions shown between planning areas, are for initial planning purposes only and do not prejudice or affect United States jurisdiction in any way

BEAUFORT SEA
CHUKCHI SEA
HOPE BASIN
NORTON BASIN
NAVARIN BASIN
ST. MATTHEW HALL
ST. GEORGE BASIN
NORTH ALEUTIAN BASIN
ALEUTIAN BASIN
BOWERS BASIN
ALEUTIAN ARC
SHUMAGIN
KODIAK
COOK INLET
GULF OF ALASKA
ALASKA
CANADA
U.S.A.
120°
126°
132°
138°
144°
150°
156°
162°
168°
174°
180°
70°
65°
60°
55°
50°

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CHAPTER SEVEN

SUBCOMMITTEES AND WORKLOAD OF THE ENERGY AND NATURAL RESOURCES COMMITTEE

(Including the 93d and 94th Congresses of its Predecessor, Interior and Insular Affairs Committee)

The Committee's jurisdiction, especially in the years since the passage of the Committee Reorganization Amendments of 1977, reflects the breadth of issues which the panel is responsible for considering. Although the Appendix to this Chapter graphically depicts the growth and change in the subcommittee structure, this section describes the major jurisdictional responsibilities and the legislative and oversight activities of the full committee and each subcommittee. By listing the panels chronologically, it is possible to follow not only the organization and structure of the subcommittees, but the major issues the committee and its subcommittees considered during that period of time.

93D CONGRESS (1973–74)

During the 93d Congress, 625 measures were referred to the Committee. The Committee held 165 days of hearings and reported 149 measures to the Senate. Of these, 134 passed the Senate and 87 were approved by the President and became public law.

Subcommittee on Indian Affairs

This panel handled all social and economic issues inherent in the Federal relations of American Indians and Alaska Natives.

There were 97 measures referred to the Subcommittee (82 Senate bills, 11 House bills, 1 Senate joint resolution, and 3 Senate concurrent resolutions). A total of 36 days of hearings were held; 26 bills were reported and passed the Senate; 22 of these were enacted into law.

Subcommittee on Minerals, Materials and Fuels

This unit considered measures relating to the mineral resources of the public lands, including those lands withdrawn as forest reserves and those on the Outer Continental Shelf (OCS). In addition, the panel considered alien ownership of mineral lands; mining interests generally; mineral land laws, including mining and leasing laws governing the disposition, lease and sale of mineral interests owned by the United States; activities of the Bureau of Land Management (BLM), Geological Survey, and Bureau of Mines; the administration of mineral laws; mining schools and experiment stations; supervision as trustee of Indian-owned mineral rights; and the conservation of petroleum and natural mineral resources.

During this Congress, 74 Senate bills, 1 Senate resolution, and 11 House bills were referred to the Subcommittee. Public hearings were held on 25 of these bills. Thirteen measures were reported favorably, and 12 passed the Senate. Seven bills became public law; two were vetoed by the President.

Subcommittee on Parks and Recreation

This panel considered legislation on national parks, historic sites, recreation areas, monuments, and military parks and battlefields.

This unit had 147 Senate bills, 3 Senate joint resolutions, 1 Senate resolution, and 13 House bills referred to it for action. Public hearings were held on 66 of these, and 41 were favorably reported. Thirty-two passed the Senate and 21 have become public law.

Subcommittee on Public Lands

This unit handled public lands generally, including forest reserves created from the public domain, and all action relative to such lands, including disposals, entries, easements, leases, patents, withdrawals, grazing activities, and wilderness designations.

During this Congress, 114 Senate bills and 9 House bills were referred to this Subcommittee. Public hearings were held on 65 of these measures. Twenty-seven were reported favorably and passed the Senate. Sixteen bills became public law. Action on 38 other Senate bills was made unnecessary by consolidation and by action on similar or companion legislation.

Subcommittee on Territories and Insular Affairs

This panel was responsible for the Commonwealth of Puerto Rico, the territories of American Samoa, Guam, and the Virgin Islands, and the Trust Territory of the Pacific Islands; it also had partial responsibility for Antarctica. The jurisdiction extended to all aspects of incorporation and organization of these areas including, but not limited to, citizenship or natural status of the inhabitants; extension of Federal legislation, including that of provisions of the U.S. Constitution; all matters of local governance; authorizations for civil governance including public works, education, transportation, and medical care; and ultimate disposition by statehood or independence.

Six Senate bills and four House bills were referred to the Subcommittee; six hearings were held. Five bills were reported and passed the Senate, and four were enacted into law.

Subcommittee on Water and Power

This panel considered irrigation, reclamation, water supply, and related power development; interstate compacts apportioning water; desalting; weather modification for increasing precipitation; and other aspects of water resources research, planning, and development.

During this Congress, 49 Senate bills and 2 House bills were referred to the Subcommittee. Hearings were held on 17 of the measures. Ten were reported favorably, 10 passed the Senate and 10 became public law.

94TH CONGRESS (1975-76)

In this Congress, the last before the Senate committee reorganization, the Committee designated five subcommittees which reflected its major spheres of responsibility and jurisdiction: Energy Research and Water Resources; Environment and Land Resources; Indian Affairs; Minerals, Material and Fuels; Parks and Recreation. In addition, the Special Subcommittee on Intergrated Oil Operations, established during the 93d Congress, was continued in the 94th Congress. The Territories and Insular Affairs Subcommittee was discontinued, and the full Committee assumed the jurisdiction previously conferred on that Subcommittee. The jurisdiction of the Water and Power Subcommittee was expanded to include nonnuclear research and development, and the title was changed to Energy and Water Resources. Finally, the name of the Public Lands Subcommittee was changed to Environment and Land Resources to reflect its areas of jurisdiction more appropriately.

During this Congress, 652 measures were referred to the Committee. The panel held 247 days of public hearings and reported 185 measures to the Senate. Of these, 152 passed the Senate and 95 became public law.

Subcommittee on Energy Research and Water Resources

This unit was responsible for legislation relating to nonnuclear energy research and development programs, including solar, geothermal, and fossil fuels, as well as for authorizing legislation for the Energy Research and Development Administration. In addition, the panel handled irrigation, reclamation, water supply, and related power development; interstate compacts apportioning water; desalting; weather modification for increasing precipitation; and other aspects of water resources research, planning and development.

During this Congress, 55 Senate bills, 2 Senate resolutions, and 10 House bills were referred to the Subcommittee. Public hearings were held on 25 of these. Twenty-six bills were reported favorably, 23 passed the Senate, and 15 became public law. An additional 20 measures actively considered became law as amendments to other bills.

Subcommittee on Environment and Land Resources

This unit had jurisdiction over the four major land systems of the United States: the National Park, Forest, Wildlife Refuge, and National Resources Lands Systems, the last of which comprises BLM lands, including OCS lands. This Subcommittee also has jurisdiction over the subordinate systems created from the four just named (the National Wild and Scenic Rivers, Wilderness Preservation, and Trails Systems), and over such other lands as those under the jurisdiction of the Bureau of Reclamation, or those held in trust for Indians, Eskimos, or Aleuts. The jurisdiction extended to renewable resource uses of Federal lands, such as grazing, recreation, timber management, wildlife habitat management, watershed management, and wild and scenic rivers.

During this time, 140 Senate bills and 12 House bills were referred to the Subcommittee. Public hearings were held on 63 of these. Thirty measures were reported and passed the Senate. Twenty-one bills became public law. Action on 32 other Senate bills was made unnecessary by consolidation or by action on similar or companion legislation.

Subcommittee on Indian Affairs

This unit embraced the historical-legal basis underlying the unique relationship maintained by Indian tribes with the U.S. Government, and handled the full range of social and economic issues inherent in the Federal relations of American Indians and Alaska Natives. In addition, the panel maintained oversight interest in the programs and activities of the Bureau of Indian Affairs, the Indian Claims Commission, and the Indian Health Service, and in the Title IV programs of the Indian Education Act of 1972 (P.L. 92-518, 86 Stat. 235) administered by the Office of Education.

There were 60 measures referred to the Subcommittee, 51 Senate bills, 4 House bills, 3 Senate resolutions, 1 Senate joint resolution, and 1 Senate concurrent resolution. A total of 28 days of hearings were held. Fifteen bills were reported and passed the Senate, with 9 of these being enacted into law.

Subcommittee on Minerals, Materials and Fuels

This unit considered measures relating to the mineral resources of the public lands, including those lands withdrawn as forest reserves and those on the OCS. In addition, it considered alien ownership of mineral lands; mining interests generally; mineral land laws, including mining and leasing laws governing the disposition, lease and sale of mineral interests owned by the United States; and activities of the Bureau of Land Management, Geological Survey, and Bureau of Mines; the administration of mineral laws; mining schools and experiment stations; the supervision as trustee of Indian owned mineral rights; and the conservation of petroleum and natural mineral resources.

During this Congress, 47 Senate bills, 1 Senate joint resolution, 1 Senate resolution, and 6 House bills were referred to the Subcommittee. Public hearings were held on 23 of these measures. Nine were reported favorably and eight passed the Senate. These bills became public law, two were vetoed by the President.

Subcommittee on Parks and Recreation

This panel (formerly the Subcommittee on Parks) encompassed issues of conservation, preservation, and recreation activities of the Federal Government, including all activities within the National Park System. Its jurisdiction was expanded to include the creation of wilderness areas on national forests and on wildlife refuge areas and the creation of wildlife refuges on public lands.

The panel's general jurisdiction over historic preservation and recreation included activities under the Antiquities Act (June 8, 1906, 34 Stat. 225), the Historic Sites Act of 1935 (P.L. 74-292, 49 Stat. 666), the Land and Water Conservation Fund Act of 1965 (P.L. 89-578, 78 Stat. 897), the Historic Preservation Act of 1966 (P.L. 89-665, 80 Stat. 915), the Wilderness Act of 1964 (78 Stat. 890, P.L. 88-577), the Wild and Scenic Rivers Act of 1968 (P.L. 90-542, 82 Stat. 906), and the Water Project Recreation Act of 1965 (P.L. 89-72, 79

Stat. 213), as well as the broader responsibilities over permit activities (including skiing in the National Forests), concession activities, and other private recreation service-oriented uses.

This Subcommittee had 183 measures referred to it. The subject matter of 94 of these passed the Senate and 84 of them became public law.

TABLE 4.—*Subcommittees of the Committee on Interior and Insular Affairs, 80th–94th Congresses (1947–76)*[1]

80th Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Mines and Mining
National Resources Economic

83d Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Minerals, Materials, and Fuels

84th Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Minerals, Materials, and Fuels

85th Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Minerals, Materials, and Fuels

86th Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Minerals, Materials, and Fuels

87th Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Minerals, Materials, and Fuels

88th Congress

Territories and Insular Affairs
Irrigation and Reclamation
Indian Affairs
Public Lands
Minerals, Materials, and Fuels

89th Congress

Territories and Insular Affairs
Indian Affairs
Public Lands
Minerals, Materials, and Fuels
Parks and Recreation
Water and Power Resources
Legislative Oversight

90th Congress

Territories and Insular Affairs
Indian Affairs
Public Lands
Minerals, Materials, and Fuels
Parks and Recreation
Water and Power Resources
Legislative Oversight (Special)

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[1] No permanent subcommittees existed in the 81st or 82nd Congresses.

91st Congress

Territories and Insular Affairs
Indian Affairs
Public Lands
Minerals, Materials, and Fuels
Parks and Recreation
Water and Power Resources
Legislative Oversight (Special)
Outer Continental Shelf (Special)

92d Congress

Territories and Insular Affairs
Indian Affairs
Public Lands
Minerals, Materials, and Fuels
Parks and Recreation
Water and Power Resources
Legislative Oversight (Special)

93d Congress

Territories and Insular Affairs
Indian Affairs
Public Lands
Minerals, Materials, and Fuels
Parks and Recreation
Water and Power Resources
Legislative Oversight (Special)
Integrated Oil Operations (Special)

94th Congress

Indian Affairs
Minerals, Materials, and Fuels
Parks and Recreatic
Legislative Oversight (Special)
Integrated Oil Operations (Special)
Energy Research and Water Resources
Environment and Land Resources
National Fuels and Energy Policy Study

Subcommittees of the Committee on Energy and Natural Resources

95th Congress

Parks and Recreation
Energy Conservation and Regulation
Energy Production and Supply
Energy Research and Development
Public Lands and Resources

96th Congress

Energy Research and Development
Energy Conservation and Supply
Energy Regulation
Energy Resources and Materials Production
Parks, Recreation, and Renewable Resources

97th Congress

Energy Research and Development
Energy Conservation and Supply
Energy Regulation
Energy and Mineral Resources
Public Lands and Reserved Water
Water and Power

98th Congress

Energy Research and Development
Energy Conservation and Supply
Energy Regulation
Energy and Mineral Resources
Public Lands and Reserved Water
Water and Power

99th Congress

Energy Research and Development
Water and Power
Energy Regulation and Conservation
Natural Resources Development and Production
Public Lands, Reserved Water, and Resource Conservation

100th Congress

Energy Research and Development
Water and Power
Energy Regulation and Conservation
Mineral Resources Development and Production
Public Lands, National Parks, and Forests

95TH CONGRESS (1977-78)

The first session of the 95th Congress marked not only the beginning of the committee under its new name, Energy and Natural Resources, but the creation of the new Cabinet-level Department of Energy as well. Senator Henry M. Jackson remained as Chairman.

The achievements of the new Committee on Energy and Natural Resources in the 95th Congress reflected its leadership role in greater jurisdictional authority in national energy policies. During this period, the committee's major effort in energy legislation consisted of the formulation of the National Energy Act which President Carter signed into law on November 9, 1978. Four of the five public laws comprising this act (Natural Gas Policy Act, Public Utility Regulatory Policies Act, National Energy Conservation Policy Act, Powerplant and Industrial Fuel Use Act) fell under the jurisdiction of the Committee on Energy and Natural Resources.

In addition, there were significant legislative achievements in the field of natural resources and territorial affairs, including enactment of the Surface Mining Control and Reclamation Act of 1977, the Outer Continental Shelf Lands Act Amendments of 1978, the National Parks and Recreation Act of 1978, and two different omnibus territorial measures.

Among the nominations considered and confirmed were Cecil D. Andrus, to be Secretary of the Interior, and James R. Schlesinger, to be the first Secretary of Energy.

The major changes in this Congress reflected the adoption of the Committee Reorganization Amendments of 1977. Most important, the Committee delineated more comprehensively the jurisdiction of each subcommittee, rather than relying on the name of the panel to designate its responsibilities. As well, Chairman Henry Jackson also established the policy of vice chairmanships for subcommittees, thereby giving more majority members a greater role in running the committee.

During this Congress, 453 bills and resolutions were referred to the Committee. Twenty-nine other measures under the Committee's jurisdiction were handled on the Senate floor without committee referral. Public hearings consumed 267 days, 112 business meetings were held, and 110 reports were filed on legislation. Seventy-two public bills and resolutions were enacted; 3 private bills were enacted. The provisions of 173 other bills and resolutions were included in the 75 that were enacted into law. In addition, the Committee held hearings or business meetings on 49 different matters pertaining to the Committee's jurisdiction.

Full Committee

Numerous matters were considered directly by the full Committee without reference to a subcommittee. The Committee received 42 nominations. Thirty-four hearings were conducted to consider 41 appointees requiring confirmation. The Committee approved 40 of the nominees, who were subsequently confirmed. One nomination was withdrawn and one was submitted too late to be considered.

Twenty-six Presidential messages were conveyed, and the Committee received a total of 423 Executive communications. The Committee published hearing records on 147 different subjects. Thirty-two dealt with Presidential appointees; the remaining 115 provided background material pertinent to the committee's legislative activities and oversight responsibilities. In addition, the Committee published 37 committee prints.

During the 95th Congress, 65 Senate bills, 8 Senate joint resolutions, 9 Senate resolutions, 4 House bills, and 1 House joint resolution were referred to the full Committee. In addition, 2 Senate bills, 1 Senate joint resolution, and 4 House bills under the full Committee's purview were handled on the floor without committee referral.

Subcommittee on Energy Conservation and Regulation

This panel had jurisdiction for the newly created Department of Energy (DOE) and for regulatory programs and legislation relating to energy regulation, energy conservation policy, nuclear insurance, and utility rate structures.

Oversight hearings were held on entitlements for home heating oil; the status of Federal energy conservation programs; pricing policy for North Slope Crude Oil; crude oil pricing and equalization tax; mandatory energy conservation; utility rate reform; emergency sales of electric power; refined product import entitlements and the domestic refining industry; and the supply of unleaded gasoline.

During this Congress, 44 Senate bills, 1 Senate joint resolution, 1 Senate resolution, and 3 House bills were referred to the Subcommittee. Public hearings were held on 11 of these measures. Six bills were reported favorably, four passed the Senate, and three became public law. In addition, the provisions of 27 other bills referred to the Subcommittee were included in other bills that became public law.

Subcommittee on Energy Production and Supply

This unit had responsibility for hydroelectric power marketing; oil and gas production, distribution, and utilization, including coal mining and leasing; oilshale and geothermal leasing; uranium resources; Outer Continental Shelf mineral resources; national petroleum reserves in Alaska; strategic petroleum reserves; and energy-related aspects of deepwater ports.

During this Congress, 16 Senate bills, 1 Senate resolution, 3 House bills, and 1 House joint resolution were referred to the Subcommittee. Two House bills under the Subcommittee's jurisdiction were handled on the Senate floor without committee referral. Public hearings were held on nine of these measures. Six measures were reported favorably by the full Committee and passed the Senate. Five bills became public law. Action on nine other bills was made unnecessary by incorporation of their provisions into other legislation.

Subcommittee on Energy Research and Development

This unit had jurisdiction over nuclear and nonnuclear energy research and development programs in the DOE, and over legislation relating to energy research and development, synthetic fuels, and mining education and research.

During this Congress, 21 Senate bills, 2 Senate resolutions, and 2 House bills were referred to the Subcommittee. One House bill under the Subcommittee's jurisdiction was handled on the Senate floor without committee referral. Public hearings were held on nine of the measures referred. Eight measures were reported favorably by the full Committee and passed the Senate. Five bills became public law. Action on 12 other bills was made unnecessary by incorporation of their provisions into other legislation.

Subcommittee on Public Lands and Resources

This panel was responsible for Federal lands administered by the BLM, national forest lands, legislation relating to renewable resources, uranium and nonfuel mineral and materials, irrigation and reclamation, land use and facility siting, implementation of the Alaska Native Claims Settlement Act of 1971 (P.L. 92-303, 85 Stat. 688), and deep seabed mining.

During this Congress, 113 Senate bills, 2 Senate joing resolutions, 2 Senate resolutions, and 20 House bills were referred to the Subcommittee. Nine measures under the Subcommittee's jurisdiction passed the Senate without committee referral. Public hearings were held on 70 measures. Thirty-one measures were reported favorably and 29 of these passed the Senate. Twenty-two measures were enacted into law. Action on 39 other bills was made unnecessary by incorporation of their provision into other legislation.

Subcommittee on Parks and Recreation

This panel encompassed issues of conservation, preservation, and recreation activities of the Federal government, including all activities within the National Park System. Its jurisdiction was expanded to include creation of wilderness areas on national forests and on wildlife refuge areas and creation of wildlife refuges on public lands.

The general jurisdiction over historic preservation and recreation included activities under the Antiquities Act, the Historic Sites Act of 1935, the Land and Water Conservation Fund Act of 1965, the Historic Preservation Act of 1966, the Wilderness Act, the Wild and Scenic Rivers Act, the Nationwide Systems of Trails Act, and the Water Project Recreation Act, as well as broader responsibilities over permit activities (including skiing in the National Forests), concession activities, and other uses oriented to private recreation services.

During this Congress, 122 Senate bills, 2 Senate concurrent resolutions, 1 Senate resolution, and 12 House bills were referred to the Subcommittee. One Senate bill under the Subcommittee's jurisdiction was handled on the Senate floor without committee referral. Five House bills under the Subcommittee's jurisdiction passed the Senate without committee referral. Five House bills under the Subcommittee's jurisdiction passed the Senate without committee referral. Public hearings were held on 53 of the measures referred. Twenty-three measures were reported favorably by the full Committee and 21 passed the Senate. Twelve bills became public law and 1 was vetoed. Action on 70 other bills was made unnecessary by incorporation of their provisions into other legislation.

96TH CONGRESS (1979-80)

The Committee's major effort in energy legislation during the 96th Congress consisted of the formulation of the Energy Security Act (Public Law 96-294) which President Carter signed into law on June 30, 1980. The Energy Security Act, among other things, established national goals for the production of synthetic fuels in the United States of at least 2 million barrels per day by 1992. Another major bill, the Energy Mobilization Board, to expedite energy projects, was rejected by the House.

The 96th Congress passed low-income energy cost assistance legislation, emergency energy conservation and gasoline rationing authority, pipeline safety amendments, and legislation dealing with allocation and pricing of power in the Pacific Northwest.

There were significant legislative achievements in natural resources and territorial affairs, including enactment of the Alaska National Interest Lands Conservation Act and two different omnibus territorial measures.

Special Committee Study: Geopolitics of Oil

The Committee on Energy and Natural Resources began its study of the geopolitics of oil in November 1979. At that time the committee held the first of a series of 15 hearings on the worldwide political, social, military, and economic factors which would contribute in a major way to determining the price and availability of oil. The purpose of the committee's study was to determine the implications of the changing nature of the world oil market and to identify the factors that were likely to affect access to and the cost of oil (in monetary and political terms) through the rest of this century.

The committee's study spanned over a year and examined virtually every major region of the world. A final special session dealt with the implications of the war between Iran and Iraq.

At the beginning of the 96th Congress, the subcommittees were reorganized to distribute the increasing workload of the Committee more equitably. Remaining within the purview of the full Committee were territories, Antarctica, the DOE budget, oversight of natural gas, coal conversion, the Alaska Oil and Gas Pipeline, Mexican gas, and divestiture.

A total of 486 bills and resolutions were referred to the Committee. Twenty-three other bills and resolutions under the Committee's jurisdiction were handled on the floor without committee referral. The Committee held 231 days of public hearings and 95 business meetings. Ninety-eight reports were filed on legislation, and 11 other bills were reported without written reports accompanying them. Seventy bills and resolutions became public law, and 7 bills were enacted as private laws. Two bills were vetoed. The provisions of 122 other bills and resolutions were included in the 77 that were enacted into law. The Committee held oversight hearings on 68 different matters within its jurisdiction.

Full Committee

The Committee received 33 nominations in this Congress. Fifteen hearings were held to consider 26 appointees. All 26 were approved by the Committee and 19 were confirmed by the Senate. One nomination was withdrawn, and five were resubmittals of nominess on whom hearings had been held and the Committee had acted favorably. Forty-five Presidential messages were transmitted and 537 executive communications received. The Committee published hearing records on 162 different subjects; 14 dealt with Presidential appointees, the remaining 148 with legislative and oversight activities. In addition, the Committee published 13 committee prints.

During this Congress, 64 Senate bills, 2 Senate joint resolutions, 2 Senate concurrent resolutions, 11 Senate resolutions, and 6 House bills were referred to the full Committee. In addition, one Senate concurrent resolution, one Senate resolution, and one House bill under the full Committee's jurisdiction were handled on the floor without committee referral.

In addition to its legislative work, the full Committee conducted oversight hearings on such items as acid rain, coal exports, crude oil pipelines, effects of carbon dioxide buildup in the atmosphere, and amendments to the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87, 91 Stat. 445).

Subcommittee on Energy Conservation and Supply

This unit had jurisdiction for Federal energy conservation programs (except research and development and regulatory programs); commercialization of new technologies; hydroelectric power marketing; small power producers; and low head hydroelectric power production.

Oversight hearings were conducted on appropriate technology, small scale hydroelectric power, the Rural Electrification Administration, Harvard University's study of the energy situation, the home energy efficiency program, the community energy efficiency program, wood energy, acid rain, and international applications of renewable energy resources.

During this Congress, 13 Senate bills and 1 Senate resolution were referred to the Subcommittee. Public hearings were held on seven of these measures. Five bills were reported favorably and passed the Senate. In addition, action on 10 bills was made unnecessary by incorporation of their provisions into other legislation.

Subcommittee on Energy Regulation

This unit had jurisdiction over regulatory functions of the Federal Energy Regulatory Commission and the Economic Regulatory Administration in the DOE (including coal conversion); nuclear insurance; land use and facilities siting; deepwater ports (energy related aspects); liquified natural gas; and energy information.

Oversight hearings were held on energy conservation and gasoline rationing; the retail gasoline market; the supply situation for diesel fuel, gasoline, heating oil, and crude oil; the Energy Information Administration's reports on the petroleum situation; middle distillate supply; home heating oil and kerosene supply; standby motor fuel rationing; emergency motor fuel demand restraint; building energy performance standards; and gasoline allocation.

During this Congress, 43 Senate bills, 1 Senate joint resolution, 1 Senate concurrent resolution, and 18 Senate resolutions were referred to the Subcommittee. One Senate resolution under the Subcommittee's jurisdiction was agreed to by the Senate without committee referral, and one House bill was held at the desk in the Senate but not acted upon. Public hearings were held on seven measures. Four bills were reported favorably, four passed the Senate, one became public law, and one became private law. Five Senate resolutions under the Subcommittee's jurisdiction were reported to the Senate and three of them were agreed to. The provisions of three bills were included in other bills that became law.

Subcommittee on Energy Research and Development

This unit had jurisdiction over nuclear and nonnuclear energy research and development programs in the DOE (except nonnuclear commercialization projects); nuclear fuel cycle policy, including uranium resources; mining education and research; and irrigation and reclamation.

During this Congress, 58 Senate bills, 1 Senate concurrent resolution and 14 House bills were referred to the Subcommittee. One House bill under the Subcommittee's jurisdiction was passed by the Senate without committee referral. Public hearings were held on 23 of the measures referred. Nineteen bills were reported favorably and 21 were passed by the Senate. Fifteen bills under the Subcommittee's jurisdiction became public law. Action on 30 other bills was made unnecessary by incorporation of their provisions into other legislation.

Subcommittee on Energy Resources and Materials Production

This unit was responsible for Federal oil, gas, oil shale, and geothermal leasing; coal leasing, mining, utilization, and mine reclamation; OCS mineral resources; deep seabed mining; minerals, materials and mining policy in general; international energy policy; naval petroleum and oil shale reserves; petroleum reserves and strategic petroleum reserves.

Oversight hearings were held on the strategic petroleum reserve program; coal leases on BLM lands in New Mexico; BLM oil and gas lease of lands belonging to Fort Chaffee, Arkansas; the Campeche oil spill; offshore oil and gas development on the George's Bank; OCS oil and gas leasing; and the Federal coal leasing program.

During this Congress, 31 Senate bills, 1 Senate joint resolution, 1 Senate resolution, and 8 House bills were referred to the Subcommittee. One Senate resolution under the Subcommittee's jurisdiction and four House bills were agreed to by the Senate without committee referral. Public hearings were held on 13 measures. Thirteen bills were reported favorably and 10 were passed by the Senate. Four bills became public law and four became private law. Action on 16 other bills was made unnecessary by incorporation of their provisions into other legislation.

Subcommittee on Parks, Recreation, and Renewable Resources

This unit had responsibility for the National Park System; the Wilderness Preservation System; the Wild and Scenic Rivers System; recreation areas; the creation of wildlife refuges on public lands; the National System of Trails; the Land and Water Conservation Fund; recreation policy; historic preservation; Federal lands administered by the BLM; national forest lands; renewable resources; and the Alaska Native Claims Settlement Act.

Oversight hearings were held on entrance and user fees within the national parks; national park concession policy; regulations under the National Forest Management Act of 1976 (P.L. 94-588, 90 Stat. 2949); the BLM grazing program; the Rattlesnakes Roadless Area, Montana; and BLM wilderness review and rangeland management programs.

During this Congress, 168 Senate bills, 2 Senate joint resolutions, 1 Senate resolution, and 53 House bills either were referred to the Subcommittee or handled on the floor without committee referral. Public hearings were held on 73 of these measures. Forty-four measures were reported favorably. Fifty-two measures were passed by the Senate, 39 became public law, and 2 became private law. Two bills were vetoed. Action on 60 other bills was made unnecessary by incorporation of their provisions into other legislation.

97TH CONGRESS (1981-82)

On January 5, 1981, Senator James A. McClure (R-Idaho) became Chairman of the Committee on Energy and Natural Resources following the change in Senate leadership as a result of the national elections in 1980.

The number of subcommittees was increased from five to six.

The committee's initial legislative emphasis was on the congressional budgetary process through which the Congress for the first time both provided a multiyear authorization for the civilian programs of the Department of Energy for each of the three fiscal years 1982, 1983, and 1984; and established authorization limitations on certain natural resources programs of the Department of the Interior and the Forest Service in the Department of Agriculture, as well as the Advisory Council on Historic Preservation, the Pennsylvania Avenue Development Corporation, and the United States Holocaust Memorial Council.

In the energy field, the committee focused its early attention on the decontrol of crude oil by President Ronald Reagan immediately following the Inauguration. The President's action was sustained by the Senate.

The Congress also completed action on comprehensive nuclear waste legislation, the National Nuclear Waste Policy Act of 1982 (P.L. 97-415), which provided for the programmatic, financial, and legal basis for a solution to the Nation's nuclear waste management challenge. (This legislation was jointly reported with the Environment and Public Works Committee.)

In the area of insular affairs, the committee acted on territorial matters within its jurisdiction including the Virgin Island Constitution legislation and several other key territorial matters.

During this Congress, 327 bills and resolutions were referred to the Committee. Twelve other measures under the Committee's jurisdiction were handled on the Senate floor. The committee held 174 days of hearings and 68 business meetings. Ninety Senate reports were filed on legislation and 10 other bills were reported without written reports. A total of 56 bills and resolutions became public law and 4 bills were enacted into private law. Two bills were vetoed by the President. The provisions of 28 other bills were included in the 60 that became public law. The Committee held 62 days of oversight hearings.

Full Committee

Issues within the jurisdiction of the full Committee and upon which it acted during the 97th Congress included the coal severance tax; breeder reactor development; natural gas pricing; petroleum allocation; international energy affairs; Alaska Natural Gas Transportation System (ANGTS) financing; and territorial policy, including issues affecting Antarctica and changes in status, such as statehood or compacts of free association, for Micronesia.

Oversight activities included the world petroleum outlook, standby oil controls, mineral royalties, natural gas policy, Federal property management and disposal, and acid precipitation and the use of fossil fuels.

During this Congress, 49 nominations were received, of which 48 were considered and confirmed by the Senate. Forty-seven Presidential messages were transmitted, and the Committee received 491 executive communications. The Committee published hearing records on 129 different subjects. Eighteen dealt with Presidential appointments and the remaining 111 with legislative and oversight activities.

Subcommittee on Energy Conservation and Supply

This unit was responsible for Federal energy conservation programs; energy information; commercialization of new technologies (for example, wind, solar, and ocean thermal energy conservation [OTEC]) deepwater ports; liquified natural gas projects; low head hydroelectric power; OCS leasing; and deep seabed mining.

Oversight hearings were held on the OCS oil and gas development and leasing plan and on DOE conservation programs.

During this Congress, seven Senate bills, one Senate resolution, one Senate joint resolution, and one House bill were referred to the Subcommittee.

Subcommittee on Energy Research and Development

This unit handled nuclear research and development; coal and synthetic fuels research and development, except nonnuclear commercialization projects; nuclear fuel cycle policy, including uranium resources; the Synthetic Fuels Corporation; and new technologies research and development (for example, solar, OTEC, and magnetohydrodynamic [MHD]).

Oversight hearings were held on DOE research and development programs, the domestic uranium mining and milling industry, the photovoltaics program, and the uranium enrichment program.

During this Congress, five Senate bills, one Senate resolution, and one Senate joint resolution were referenced to the Subcommittee.

Subcommittee on Energy Regulation

This unit handled nuclear insurance and facilities siting; pipelines; coal conversion; regulatory functions of the Economic Regulatory Administration (except emergency petroleum allocation); the

Federal Energy Regulatory Commission; intergovernmental relations; refinery policy; amendments to ESECA and to the Powerplant and Industrial Fuel Use Act of 1978 (PIFUA, 92 Stat. 3287, P.L. 95-620) and ANGTS financing.

Oversight hearings were held on hydroelectric development and licensing procedures, hydroelectric development in New England, and the world petroleum supply.

During this Congress, 14 Senate bills and 1 Senate resolution were referred to the Subcommittee. Public hearings were held on seven of these measures.

Subcommittee on Energy and Mineral Resources

This unit handled energy and nonfuel mineral resources; Federal mineral leasing; mining policy and general mining laws; surface mining; petroleum reserves; strategic petroleum reserves; coal production, distribution, and utilization; oil and gas production and distribution; mining education and research; mineral extraction from public lands; mining claims; and mineral conservation.

Oversight hearings were held on anthracite coal shortages, the effects of Federal coal leasing in Montana, strategic minerals and materials, strategic petroleum reserves, surface mining control and reclamation, and the world coal export market.

During this Congress, 37 Senate bills, one Senate resolution, and five House bills were either referred to the Subcommittee or handled on the Senate floor without committee referral. Public hearings were held on 31 of these measures. Sixteen measures were reported favorably, 15 were passed by the Senate. Three became public law and two became private law.

Subcommittee on Water and Power

This unit handled irrigation; reclamation projects; power marketing administrations (such as Bonneville, Western Area Power, and Southeastern Power); the impact of energy development on water resources; small power producers; and hydroelectric power.

Oversight hearings were held on hydroelectric development in Alaska; hydroelectric development and licensing procedures; and the Bonneville Power Administration's transmission line siting practices in Montana.

During this Congress, 29 Senate bills, 1 Senate resolution, and 5 House bills were referred to the Subcommittee. Public hearings were held on 16 of these measures. Thirteen were reported favorably, 12 were passed by the Senate, and 8 became public law.

Subcommittee on Public Lands and Reserved Water

This panel had jurisdiction over BLM lands (timber, range wildlife, and recreation management); national forest lands; parks; wilderness; wild and scenic rivers; MX missile land withdrawal; national recreation areas; national monuments; historic sites; military parks and battlefields; the National Trail System; the Land and Water Conservation Fund; creation of wildlife refuges on public lands; historic preservation; renewable resources; and, on the public domain, preservation of prehistoric ruins and objects of interest.

Oversight hearings were held on Montana Wilderness proposals, land protection alternatives, and public land acquisition.

During this Congress, 123 Senate bills, 3 Senate joint resolutions, 34 House bills, and 1 House joint resolution were either referred to the Subcommittee or handled on the Senate floor without committee referral. Thirty-two days of hearings were held on 78 of these measures. Fifty measures referred were reported favorably. Forty-nine were passed by the Senate, 33 of them became public law, and 2 became private law. One bill was vetoed.

98TH CONGRESS (1983–84)

During this Congress, 333 bills and resolutions were referred to the Committee. Six other measures under the Committee's jurisdiction were handled on the Senate floor without committee referral. The Committee held 157 days of hearings and 78 business meetings. Eighty-six bills and resolutions were reported, and the Committee was discharged from 12 other measures. Sixty-six measures became public law, and an additional 9 measures were incorporated into other measures that became public law.

Full Committee

During the 98th Congress, the jurisdication of the full Committee remained the same as during the preceding Congress. The major issues included the coal severance tax; breeder reactor development; natural gas pricing; petroleum allocation; international energy affairs; ANGTS financing; and territorial policy (including changes in status, such as statehood or compacts of free association for Micronesia, and issues affecting Antarctica). In the energy field, the oversight activities of the full Committee emphasized review of the world petroleum outlook; energy emergency preparedness, including the strategic petroleum reserve; the Bonneville Power Administration; alternative funding plans for completing the Clinch River Breeder Reactor Plant Project; and acid precipitation and the use of fossil fuels. Hearings were also begun on oil mergers and their impact on the national interest.

During this Congress, 19 nominations were submitted, 15 were reported favorably, and 13 were confirmed. Thirty-four Presidential messages were transmitted and 453 executive communications received. The Committee filed 83 Senate reports and published hearing records on 110 different subjects. Thirteen hearing records dealt with Presidential appointees, and the remaining 97 with issues of legislative and oversight concern.

The following six subcommittees and their jurisdictions remained the same as for the preceding 97th Congress:

Subcommittee on Energy Conservation and Supply

This unit was responsible for Federal energy conservation programs; energy information; commercialization of new technologies (for example, wind, solar, and OTEC); deepwater ports; liquified natural gas projects; low head hydroelectric power; OCS leasing; and deep seabed mining.

Oversight hearings were held on DOE energy conservation programs, Energy Information Administration programs, OCS leasing activities, and a revised Constitution for American Samoa.

During this Congress, 12 Senate bills and 4 House bills were referred to the Subcommittee. The panel held five days of hearings.

Subcommittee on Energy Research and Development

This unit handled nuclear research and development; coal and synthetic fuels research and development, except nonnuclear commercialization projects; nuclear fuel cycle policy, including uranium resources; the Synthetic Fuels Corporation; and new technologies research and development (for example, solar, OTEC, and MHD).

Oversight hearings were held on the DOE research and development programs budget and on the status of the U.S. domestic uranium mining and milling industry.

During this Congress, nine Senate bills and one House bill were referred to the Subcommittee, which held two days of hearings. One bill became public law.

Subcommittee on Energy Regulation

This unit handled nuclear insurance and facilities siting; pipelines; coal conversion; regulatory functions of the Economic Regulatory Administration (except emergency petroleum allocation); the Federal Energy Regulatory Commission; Intergovernmental relations; refinery policy; PIFUA and ESECA amendments; and ANGTS financing.

Oversight hearings were held on marketing alternatives for Alaskan natural gas and on North American natural gas reserves and resources.

During this Congress, 10 Senate bills, 1 Senate joint resolution, and 1 House bill were referred to the Subcommittee, which held 3 days of hearings.

Subcommittee on Energy and Mineral Resources

This unit handled energy and nonfuel mineral resources; Federal mineral leasing; mining policy and general mining laws; surface mining; petroleum reserves; strategic petroleum reserves; coal production, distribution, and utilization; oil and gas production and distribution; mining education and research; mineral extraction from public lands; mining claims; and mineral conservation.

Oversight hearings were held on the U.S. coal industry, including enhanced coal technology; the abandoned mine land fund; implementation in Appalachia of the Surface Mining Control and Reclamation Act; reintroduction of coal as fuel for railroad locomotives; recovery of oil by mining; geothermal power development in the Great Basin; and the status of the strategic petroleum reserve.

During this Congress, 16 Senate bills, 2 Senate resolutions, and 4 House bills were either referred to the Subcommittee or handled on the Senate floor without committee referral. Three of these became public law.

Subcommittee on Water and Power

This unit handled irrigation; reclamation projects; power marketing administrations (such as Bonneville, Western Area Power, and Southeastern Power); the impact of energy development on water resources; small power producers; and hydroelectric power.

During this Congress, 36 Senate bills and 3 House bills were referred to the Subcommittee. The Subcommittee held 8 days of legislative hearings on 17 of these measures. Six of these became public law.

Subcommittee on Public Lands and Reserved Water

This panel had jurisdiction over BLM lands (timber, range wildlife, and recreation management); national forest lands; parks; wilderness; wild and scenic rivers; MX missile land withdrawal; national recreation areas; National monuments; historic sites; military parks and battlefields; the National Trail System; the Land and Water Conservation Fund; creation of wildlife refuges on public lands; historic preservation; renewable resources; and, on the public domain, preservation of prehistoric ruins and objects of interest.

Oversight hearings were held on Idaho, Montana and Oregon wilderness issues; BLM acquisition of lands and grazing permits or licenses; Federal and non-Federal land management within the Columbia River Gorge in Oregon and Washington; and Federal land management problems in Northern Nevada.

During this Congress, 136 Senate bills, 1 Senate resolution, 5 Senate joint resolutions, and 36 House bills were referred to the Subcommittee. An additional nine House bills were held at the desk without referral. The Subcommittee held 36 days of legislative hearings. Fifty-three measures became public law, 1 measure was vetoed, and another was vetoed and the veto overridden.

99TH CONGRESS (1985–86)

During this Congress, 324 bills and resolutions were referred to the Committee. The panel held 135 days of public hearings and 55 business meetings. Ninety-two bills or resolutions were reported by the Committee; the panel was discharged from 14 other measures. Seventy-seven public laws were enacted; 2 other measures were incorporated in related laws. One bill was pocket vetoed.

Full Committee

Major issues considered by the full Committee concerned the strategic petroleum reserves; intergovernmental relations; OCS leasing; international energy affairs; territorial affairs; and Antarctica. In addition, on an ad hoc basis, the full Committee retained jurisdiction over issues which required extreme expeditious handling, those which substantially overlapped two or more subcommittee jurisdictions, or those that were so nationally significant that all Members wanted to participate fully.

During this Congress, 36 nominations were submitted. Of these, 30 were reported favorably and 32 were confirmed. Twenty-eight Presidential messages were transmitted and 407 executive communications received. The Committee filed 92 reports and published

105 hearing records. Fourteen hearings dealt with Presidential appointees, and the remainder with legislative issues. As well, the full Committee conducted 14 days of oversight hearings.

Subcommittee on Energy Regulation and Conservation

This unit handled Federal energy conservation programs; energy information; commercialization of new technologies (e.g., wind, solar, and OTEC); liquified natural gas projects; oil and gas pipelines and pipeline regulation; regulatory functions of the Economic Regulatory Administration; refinery policy; gasoline rationing; natural gas pricing and regulation; emergency preparedness; petroleum allocation; and coal conversion under the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3287, P.L. 95-620).

Oversight hearings were held on automobile fuel economy standards, industrial energy efficiency, natural gas, and the impact of imported petroleum products on the domestic petroleum industry.

During this Congress, 10 Senate bills, 1 Senate resolution, and 2 House bills were referred to the Subcommittee, and one bill was enacted into public law.

Subcommittee on Energy Research and Development

This panel handled nuclear research and development; coal and synthetic fuels research and development; nuclear and nonnuclear energy commercialization projects; nuclear fuel cycle policy, including uranium resources; the Synthetic Fuels Corporation; new technologies research and development (for example, conservation, solar, OTEC, and MHD); nuclear insurance and facilities siting; and breeder reactor development.

Oversight hearings were held on clean coal technologies; technology transfer, and site selection for a second nuclear waste repository under the DOE's Office of Civilian Radioactive Waste Management.

During the Congress, 18 Senate bills and 1 Senate resolution were referred to the Subcommittee. The panel held two legislative hearings and enacted one public law.

Subcommittee on Natural Resources Development and Production

This panel had responsibility for energy nonfuel mineral resources; Federal mineral leasing; national mining and minerals policy and general mining laws; surface mining, reclamation, and enforcement; coal production, distribution, and utilization; oil and gas production and distribution; mining education and research; minerals exploration, development, and production from public and acquired lands; mineral conservation; royalty management; the coal severance tax; naval petroleum and oil shale reserves; deepwater ports; and deep seabed mining.

Oversight hearings were held on the prospects for the export of American coal; impact of coal and electricity imports on the domestic coal industry; and the state of the coal industry in Oklahoma.

During this Congress, 16 Senate bills and 1 House bill were either referred to the Subcommittee or handled on the Senate floor without committee referral. The panel held nine days of legislative hearings. One measure was enacted into law.

Subcommittee on Public Lands, Reserved Water and Resource Conservation

This panel considered issues related to public lands administered by the BLM; the National Forest System; the National Park System; the National Wilderness Preservation System; the Wild and Scenic Rivers System; the National Trail System; the establishment of wildlife refuges on public lands; the Alaska Native Claims Settlement Act; the Alaska National Interest Lands Conservation Act of 1980 (P.L. 96-487, 94 Stat. 2371); reserved water rights; military land withdrawals; national recreation areas; national monuments; historic sites; military parks and battlefields; the Land and Water Conservation Fund; historic preservation; renewable resources; outdoor recreation resources; and on the public domain, preservation of prehistoric ruins and objects of interest.

Oversight hearings conducted on preserving archaeological and paleontological sites and objects; the National Park Service; and recreation fees.

During this Congress, 119 Senate bills, 1 Senate resolution, 9 Senate resolutions, 57 House bills, 5 House joint resolutions, and 1 House concurrent resolution were referred to the Subcommittee. An additional nine House bills were held at the desk without committee referral. The panel held 36 days of legislative hearings. Fifty-eight public laws were enacted.

Subcommittee on Water and Power

This unit handled irrigation; reclamation projects; power marketing administrations (e.g. Bonneville Power, Alaska Power, Southwestern Power, Western Area Power, and Southeastern Power); impacts of energy development on water resources; small power producers; hydroelectric power; low head hydroelectric power; utility policy; ANGTS financing; and the Federal Energy Regulatory Commission, including regulation of ANGTS, the Trans Alaska Pipeline System (TAPS), and other oil or gas pipeline transportation systems within Alaska (e.g., the Trans Alaska Gas Line system).

Oversight hearings were held on water supply issues in the Mid-Atlantic Region.

During this Congress, 35 Senate bills and 4 House bills were referred to the Subcommittee; 1 House bill was held at the desk without committee referral. The Subcommittee held 9 days of hearings on 17 of the measures. Of the measures, six became public law and five others were incorporated into other public laws.

100TH CONGRESS (1987-88)

Full Committee

On January 14, 1987, Chairman J. Bennett Johnston (D-Louisiana) held the first organizational business meeting of the 100th Congress of the Committee on Energy and Natural Resources. In addition, the Chairman read a Resolution of Appreciation for Senator James A. McClure (R-Idaho), who had served as Chairman for the previous three sessions of Congress.

The legislative responsibilities within the purview of the full Committee were strategic petroleum reserves; OCS leasing; international energy affairs; natural gas pricing and regulation; utility policy; nuclear waste and insurance programs; territorial affairs including comonwealths; freely associated states; and Antarctica. In addition, the full Committee considered those issues which required extremely expeditious handling, those that substantially overlapped two or more subcommittee jurisdictions, or those that were of such an exceptional national significance that all members of the Committee wanted to participate fully.

Concern about global climate change spurred the introduction of legislation to determine the effect of the "greenhouse effect" on human society and to increase support for conservation and for alternative energy supplies. The Committee held three hearings on the issue of global warming in the second session of the 100th Congress to receive testimony from scientists, Federal agencies and others directed at improving our understanding of this critical issue facing mankind. It is expected that increased attention to the global environment will be given by the Committee in the 101st Congress.

Subcommittee on Energy Regulation and Conservation

This unit handled Federal energy conservation programs; energy information; commercialization of new technologies (e.g. wind, solar, and OCET); liquified natural gas projects; oil and gas pipelines and pipeline regulation, including regulation of Alaska Natural Gas Transportation System; TAPS and other oil or gas pipeline transportation systems within Alaska (e.g., the Trans-Alaska Gas Line System); regulatory functions of the ERA; refinery policy; gasoline rationing; emergency preparedness; petroleum allocation; and coal conversion.

Subcommittee on Energy Research and Development

This panel was responsible for nuclear research and development; coal and synfuels research and development; nuclear and nonnuclear energy commercialization projects; nuclear fuel cycle policy, including uranium resources; new technologies research and development (e.g. conservation, solar, OTEC, and MHD); nuclear facilities siting; and breeder reactor development.

Subcommittee on Mineral Resources Development and Production

This unit had responsibility for energy and nonfuel mineral resources; Federal mineral leasing; national mining and minerals policy and general mining laws; surface mining, reclamation and enforcement; coal production, distribution, and utilization; oil and gas production and distribution; mining education and research; minerals exploration, development, and production from public and acquired lands; mineral conservation; royalty management; coal severance tax; naval petroleum and oil shale reserves; deepwater ports; and deep seabed mining.

Subcommittee on Public Lands, National Parks and Forests

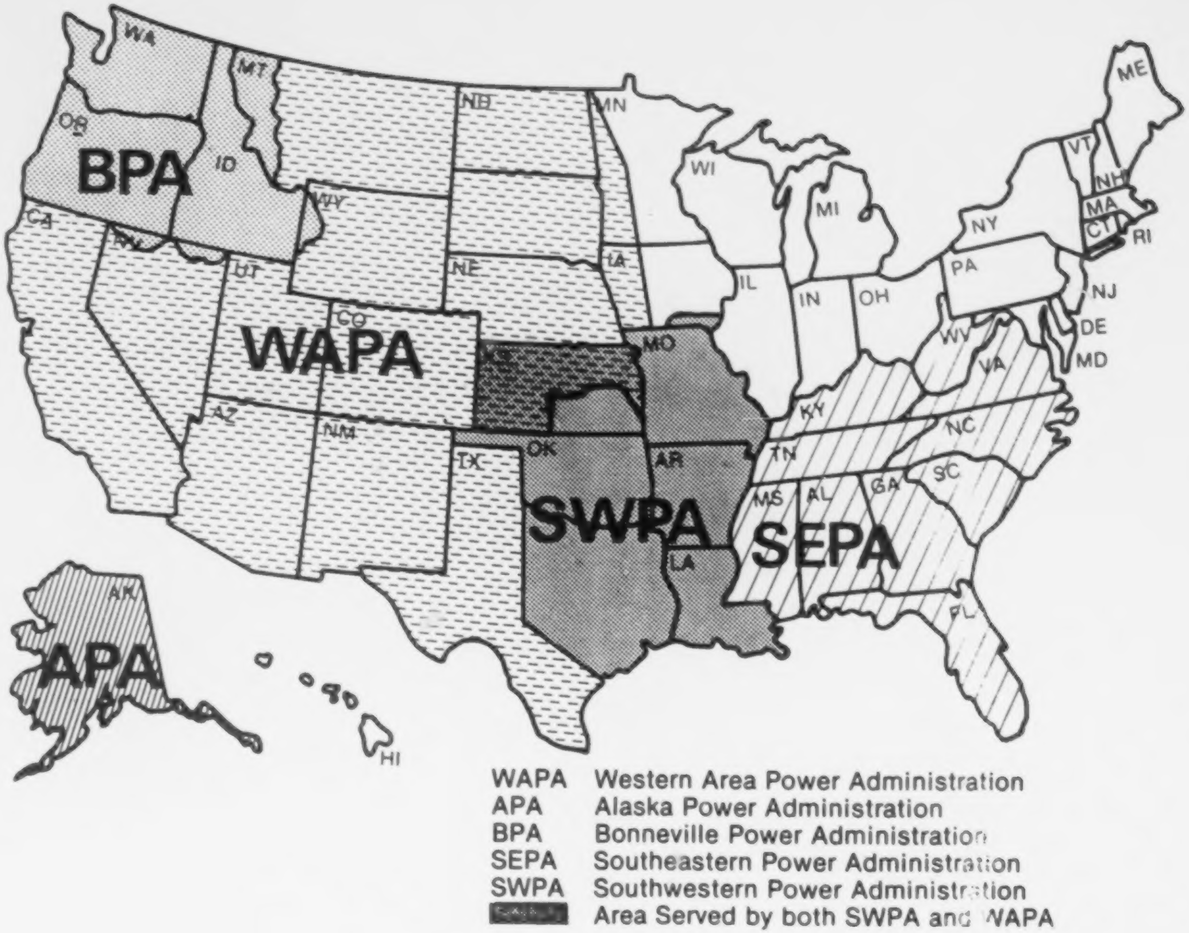
The Subcommittee's oversight and legislative responsibilities cover all activities of the National Park System, including the creation of units of the system and their acquisition, preparation and maintenance, management, and development.

As well, the subcommittee jurisdiction extends to all public lands administered by the BLM; the National Forest System; the National Wilderness Preservation System; the Wild and Scenic Rivers Systems; the National Trails System; the establishment of wildlife refuges on public lands; the Alalska National Interest Lands Conservation Act; reserved water rights; military land withdrawals; national recreation areas; national monuments; historic sites; military parks and battlefields; the Land and Water Conservation Fund; historic preservation; and on the public domain, preservation of historic ruins and objects of interest.

However, the Energy Committee shares jurisdiction with the Committee on Agriculture, Nutrition and Forestry in the area. The Agriculture Committee, by virture of its responsibility for "forestry in general and forest reserves other than those created from the public domain," shares jurisdiction over bills concerning timber management in the National Forests or resources management issues within acquired land national forests only. For example, the Eastern Wilderness Act of 1975 (P.L. 93-622, 88 Stat. 2096) was jointly referred.

Subcommittee on Water and Power

This unit was responsible for irrigation; reclamation projects, including related flood control purposes; power marketing administration (e.g. Bonneville Power, Alaska Power, Southwestern Power, Western Area Power, and Southeastern Power); impacts of energy development on water resources; groundwater resources and management; small power producers; hydroelectric power; and low head hydroelectric power.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WAPA	Western Area Power Administration
APA	Alaska Power Administration
BPA	Bonneville Power Administration
SEPA	Southeastern Power Administration
SWPA	Southwestern Power Administration
▨	Area Served by both SWPA and WAPA

CHAPTER EIGHT

CABINET DEPARTMENTS ASSOCIATED WITH ENERGY AND NATURAL RESOURCES COMMITTEE JURISDICTION

Creation of the Department of the Interior

On March 3, 1849, Congress created the Department of the Interior to administer the Federal Government's internal affairs responsibilities, transferring to it the General Land Office, the Office of Indian Affairs, the Pension Office, the Patent Office and other assorted housekeeping functions. Over the years, the Department has evolved into the Nation's principal conservation agency, and its mission is to encourage and provide for the appropriate preservation, development, and management of the Nation's public lands and natural resources. This mission includes fostering the wisest use of the land and water resources, protecting fish and wildlife, preserving the environmental and cultural values of national parks and historic places, and providing for enjoyment of life through outdoor recreation.

The Department also has major responsibility for American Indian reservation communities and Alaska Native people, in addition to the social and economic development of the territories of the United States and in the Trust Territory of the Pacific Islands.

The jurisdiction of the Department of the Interior includes the administration of over 500 million acres of Federal land; the conservation and development of mineral and water resources; the conservation, development, and utilization of fish and wildlife resources; the preservation and administration of the Nation's scenic and historic areas; the reclamation of arid lands in the West through irrigation; and the management of hydroelectric power systems.

COMMITTEE OVERVIEW OF THE DEPARTMENT OF THE INTERIOR PROGRAMS

Bureau of Land Management

The Bureau of Land Management (BLM) is responsible for the appropriate multiple use management of natural resources on 270 million acres of public lands located primarily in the Western States, including 90 million acres in Alaska. BLM also has the responsibility for mineral leasing and supervision of minerals operations on an additional 300 million acres of Federal mineral estate that underlie other surface ownership.

Minerals Management Service

The Minerals Management Service has responsibility for collecting and accounting for royalties and other mineral revenues due from Federal and Indian leases, both onshore and offshore, as well as leasing and supervising the development of mineral resources on the Outer Continental Shelf.

Bureau of Reclamation

The Bureau of Reclamation plans, develops, and operates water resource projects in the seventeen Western States. The purpose of these programs is to provide irrigation water service, municipal and industrial water supplies, hydroelectric power generation, and outdoor recreation and flood control to help stabilize and stimulate local and regional economies. Projects also contribute to environmental protection through water quality improvement and fish and wildlife enhancement features.

Geological Survey

The major missions of the Geological Survey are to undertake research, fact finding, and mapping, and to disseminate the resulting information to the public to improve the knowledge of the extent, distribution, and character of water and other natural resources, and of the geologic processes, structure and hazards that affect the development and use of the Nation's land and physical environment.

Bureau of Mines

The mission of the Bureau of Mines is to help ensure that the Nation has adequate and dependable mineral supplies for economic, security and other needs. The Bureau collects, analyzes and publishes statistical and economic information on all phases of mineral resource development and analyzes the effects of public policy alternatives, including proposed new regulations, on mineral supply and demand. Research is conducted to improve the technology used for the extraction, processing, use and recycling of the Nation's mineral resources at acceptable social, environmental and economic costs.

Fish and Wildlife Service

The Fish and Wildlife Service has a principal Federal responsibility to conserve, protect, and enhance fish and wildlife and their habitats. The Service manages the national wildlife refuge systems, waterfowl production areas, fish hatcheries, and wildlife management areas on more than ninety million acres.

National Park Service

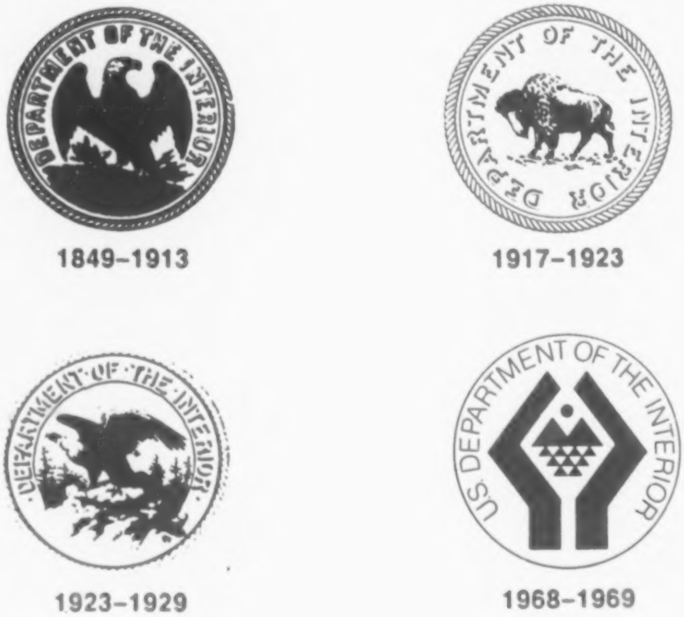
The National Park Service contains 338 areas which cover 79.4 million acres of land in 49 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. The National Park Service has the dual responsibility of protecting the natural and cultural resources of these areas and providing for their use and enjoyment by the public. Along with other Federal agencies, State and local governments, and private organizations, the Service also conducts programs that promote and assist outdoor recreation planning, the preservation of cultural, historic and natural resources, and environmental compliance and review.

Office of Territorial and International Affairs

This Office carries out the responsibilities of the Secretary for the U.S. territories of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands, as well as for the Trust Territory of the Pacific Islands and the freely associated states of the Republic of the Marshall Islands and the Federated States of Micronesia. The objectives of the Office are to promote the political, economic and social development of the territories and direct each toward greater self-government and self-reliance. In the case of the freely associated states, the objective is to administer and supervise continuing Federal programs as provided under the Compacts of Free Association.

NOMINATIONS IN THE DEPARTMENT OF THE INTERIOR CONSIDERED BY THE ENERGY AND NATURAL RESOURCES COMMITTEE

Secretary; Under Secretary; Assistant Secretary for Policy, Budget, and Administration
Solicitor
Inspector General
Assistant Secretary:
  (1) Fish and Wildlife and Parks, jointly with Environment and Public Works Committee
  (2) Land and Mineral Management, Mineral Management Service Director, Bureau of Land Management; Director, Office of Surface Mining, Reclamation and Enforcement
  (3) Territorial and International Affairs
  (4) Water and Science:
    Director, U.S. Geological Survey
    Director, Bureau of Mines
    Director, Bureau of Reclamation
Chairman, Alaska Land Use Council



DEPARTMENT OF THE INTERIOR
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U.S. DEPARTMENT OF THE INTERIOR

1849–1913

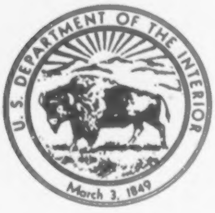
1917–1923

1923–1929

1968–1969

Some former Interior seals

INTERIOR


U.S. DEPARTMENT OF THE INTERIOR
March 3, 1849

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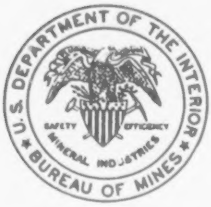
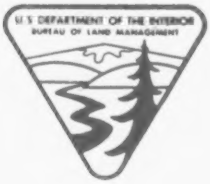
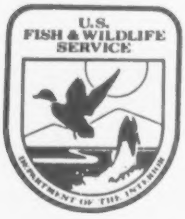

U.S. DEPARTMENT OF THE INTERIOR
SAFETY EFFICIENCY
MINERAL INDUSTRIES
BUREAU OF MINES

No. 2


U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

No. 3


U.S.
FISH & WILDLIFE
SERVICE
DEPARTMENT OF THE INTERIOR

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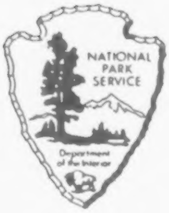
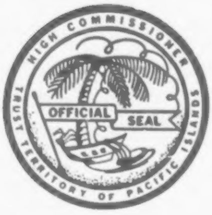

NATIONAL
PARK
SERVICE
Department
of the Interior

No. 5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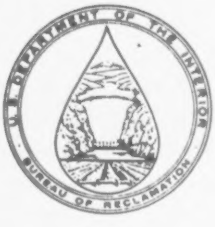
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

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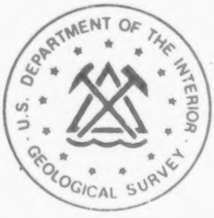
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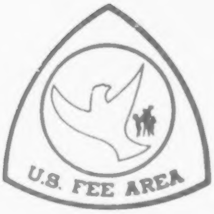

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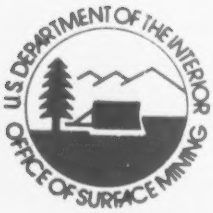
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OFFICE OF SURFACE MINING

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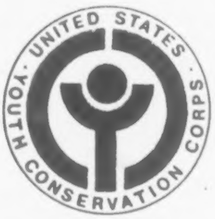
UNITED STATES
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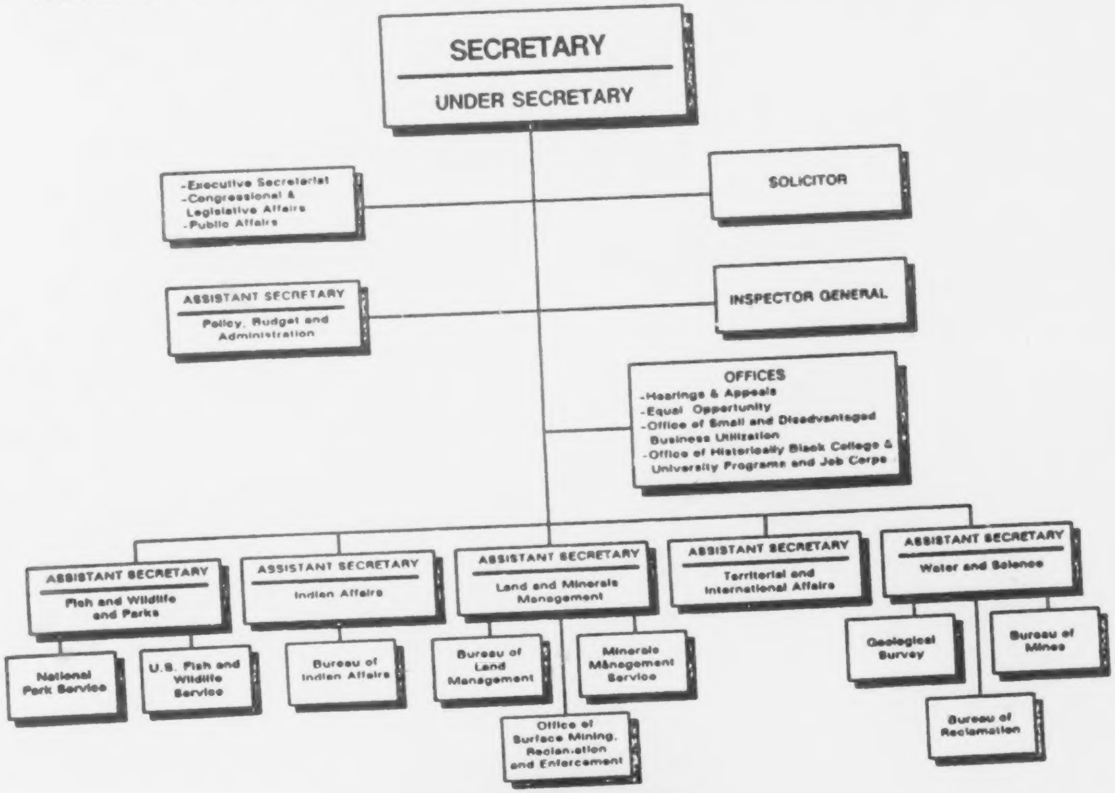
No. 11

No. 12

GENERAL ORGANIZATION – U.S. DEPARTMENT OF THE INTERIOR


SECRETARY
UNDER SECRETARY
-Executive Secretariat
-Congressional & Legislative Affairs
-Public Affairs
SOLICITOR
ASSISTANT SECRETARY
Policy, Budget and Administration
INSPECTOR GENERAL
OFFICES
-Hearings & Appeals
-Equal Opportunity
-Office of Small and Disadvantaged Business Utilization
-Office of Historically Black College & University Programs and Job Corps
ASSISTANT SECRETARY
Fish and Wildlife and Parks
National Park Service
U.S. Fish and Wildlife Service
ASSISTANT SECRETARY
Indian Affairs
Bureau of Indian Affairs
ASSISTANT SECRETARY
Land and Minerals Management
Bureau of Land Management
Minerals Management Service
Office of Surface Mining, Reclamation and Enforcement
ASSISTANT SECRETARY
Territorial and International Affairs
ASSISTANT SECRETARY
Water and Science
Geological Survey
Bureau of Mines
Bureau of Reclamation

Organizational

1988

CREATION OF THE DEPARTMENT OF ENERGY

The Department of Energy (DOE) was established by the Department of Energy Organization Act (P.L. 95-91, 91 Stat. 565) on August 4, 1977. The Act consolidated the major Federal energy functions into one Cabinet level department, transferring to DOE all of the responsibilities of the Energy Research and Development Administration, the Federal Power Administration, and the Alaska, Bonneville, Southeastern, and Southwestern Power Administrations (formerly components of the Department of the Interior), as well as the power marketing functions of the Department of the Interior's Bureau of Reclamation. Also transferred to DOE were certain functions of the Interstate Commerce Commission, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Navy, and the Department of the Interior.

The DOE provides the framework for a comprehensive and balanced national energy plan through the coordination and administration of the energy functions of the Federal Government. The Department is responsible for the research, development, and demonstration of energy technology; the marketing of Federal power; energy conservation; the nuclear weapons program; regulation of energy production and use; energy pricing and allocation; and a central energy data collection and analysis program.

COMMITTEE OVERVIEW OF THE DEPARTMENT OF ENERGY PROGRAMS

Office of Energy Research

This Office is responsible for management of the physical and energy research and development programs of the Department; basic energy sciences, high energy physics, and fusion energy research programs; DOE programs supporting university researchers; and research in mathematical and computational sciences critical to the use and development of supercomputers. It also administers a financial support program for research and development projects not funded elsewhere in the Department, and manages a research program directed at determining the generic environmental, health, and safety aspects of energy technologies and programs.

Office of Civilian Radioactive Waste Management

This unit is responsible for the Nuclear Waste Fund and for the management of Federal programs for recommending, constructing, and operating repositories for disposal of high-level nuclear waste and spent nuclear fuel; interim storage of spent nuclear fuel; and monitored retrievable storage.

Fossil Energy

This Office is responsible for research and development programs involving fossil fuels—coal, petroleum, and gas. The fossil energy program involves applied research, exploratory development, and limited testing targeted to high-risk and high-payoff endeavors. The objective of the program is to provide the general technology and knowledge base that the private sector can use to complete development and initiate commercialization of advanced processes and energy systems. The Office also manages and directs the efforts of various Federal laboratories and energy technology centers, the Strategic Petroleum Reserve, and the Naval Petroleum and Oil Shale Reserves.

Conservation and Renewable Energy

This Office is responsible for formulating and directing programs designed to increase the production and utilization of renewable energy (solar, biomass, wind, geothermal, alcohol fuels, etc.) and improving the energy efficiency of transportation, building, and industrial systems. The Office also has responsiblity for administering statutorily mandated programs that provide financial assistance for state energy planning, for the weatherization of housing owned by the poor and disadvantaged, and for implementing energy conservation measures by schools and hospitals, local units of government, and public care institutions.

International Affairs and Energy Emergencies

This Office is responsible for programs and activities relating to the international aspects of overall energy policy; ensures that U.S. international energy policies and programs conform to national goals, legislation, and treaty obligations; assesses world price and supply trends; and coordinates cooperative international energy programs with foreign governments and international organizations.

The Office also directs and coordinates the Department's energy emergency preparedness and emergency operations efforts; develops contingency plans and tests and evaluates response plans; and develops and maintains continuity of Government and national emergency plans.

Defense Programs

This unit directs the nation's nuclear weapons research, development, testing, production, and surveillance program, as well as the production of the special nuclear materials used by the weapons program within the Department, and the management of defense nuclear waste and byproducts.

The Office also manages research in inertial fusion; the safeguards and security program; classification, declassification, and reclassification of documents; unclassified controlled nuclear information; departmental intelligence; export control; test ban treaty verification and monitoring technology; defense and energy related intelligence activities; and the Department's emergency preparedness activities.

Nuclear Energy

This group administers the Department's research and development programs associated with fission energy (including nuclear reactor development, both civilian and naval), the nuclear fuel cycle, space nuclear applications, and uranium enrichment. In addition, the Office provides advice concerning nonproliferation, assesses alternative nuclear systems and new reactor and fuel cycle concepts, and evaluates proposed advanced nuclear fission energy concepts and technical improvements for possible application to nuclear powerplant systems.

Energy Information Administration

This Office is responsible for the timely and accurate collection, processing, and publication of data in the areas of energy resource reserves and energy production, demand, consumption, distribution, and technology. It also provides analyses of energy data to assist government and nongovernment users in understanding energy trends. Audits are conducted to ensure the validity of regulatory and other energy data. The Energy Information Administration is a clearinghouse for general information on energy, and coordinates its activities with the Department's Technical Information Center.

Economic Regulatory Administration

This unit administers the Department's regulatory programs other than those assigned to the Federal Energy Regulatory Commission.

Federal Energy Regulatory Commission

An independent, five member Commission within the DOE, the Federal Energy Regulatory Commission retained many of the functions of the Federal Power Commission, such a setting rates and charges for the transportation and sale of natural gas, for the transmission and sale of electricity, and for the transportation of oil by pipeline. Its regulatory functions include issuing licenses for hydroelectric power projects, approving rates, inspecting dams, enforcement activities, and providing other services to regulated businesses.

Power Marketing Administrations

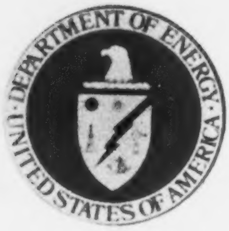
This office consolidates the Bonneville Power Administration, Southeastern Power Administration, Alaska Power Administration, Southwestern Power Administration and Western Area Power Administration.

NOMINATIONS IN THE DEPARTMENT OF ENERGY CONSIDERED BY THE ENERGY AND NATURAL RESOURCES COMMITTEE

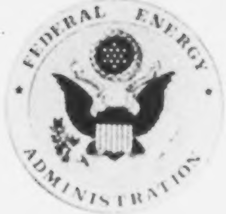
Secretary; Deputy Secretary; Under Secretary
Director: Officer of Minority Economic Impact, Office of Small and Disadvantaged Business Utilization
General Counsel
Inspector General
Assistant Secretary: Management and Administration; Congressional, Intergovernmental and Public Affairs; Nuclear Energy; Fossil Energy; Conservation and Renewable Energy; Defense Programs; Environment, Safety and Health; International Affairs and Energy Emergencies
Administrator: Economic Regulatory Administration, Energy Information Administration
Director: Office of Civilian Radioactive Waste Management, Office of Energy Research

Federal Inspector: Alaska Natural Gas Transportation System
Federal Energy Regulatory Commission: Chairman, Four Commissioners

ENERGY


DEPARTMENT OF ENERGY
UNITED STATES OF AMERICA

No. 1
DOE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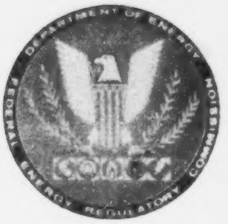
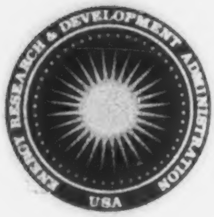
ADMINISTRATION

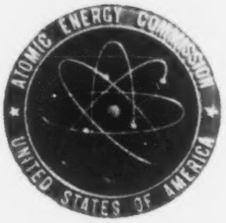
No. 2
FEA


DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

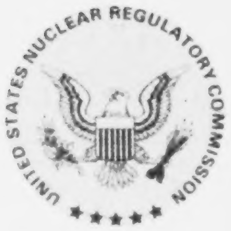
No. 3
FERC


ENERGY RESEARCH & DEVELOPMENT ADMINISTRATION
USA

No. 4
ERDA


ATOMIC ENERGY COMMISSION
UNITED STATES OF AMERICA

No. 5
AEC


UNITED STATES NUCLEAR REGULATORY COMMISSION

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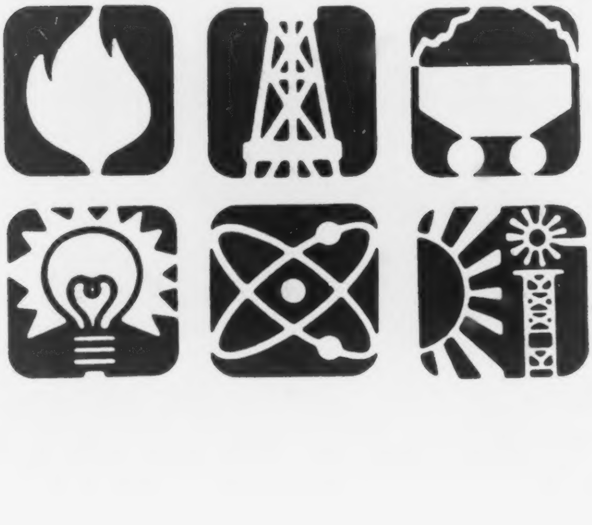
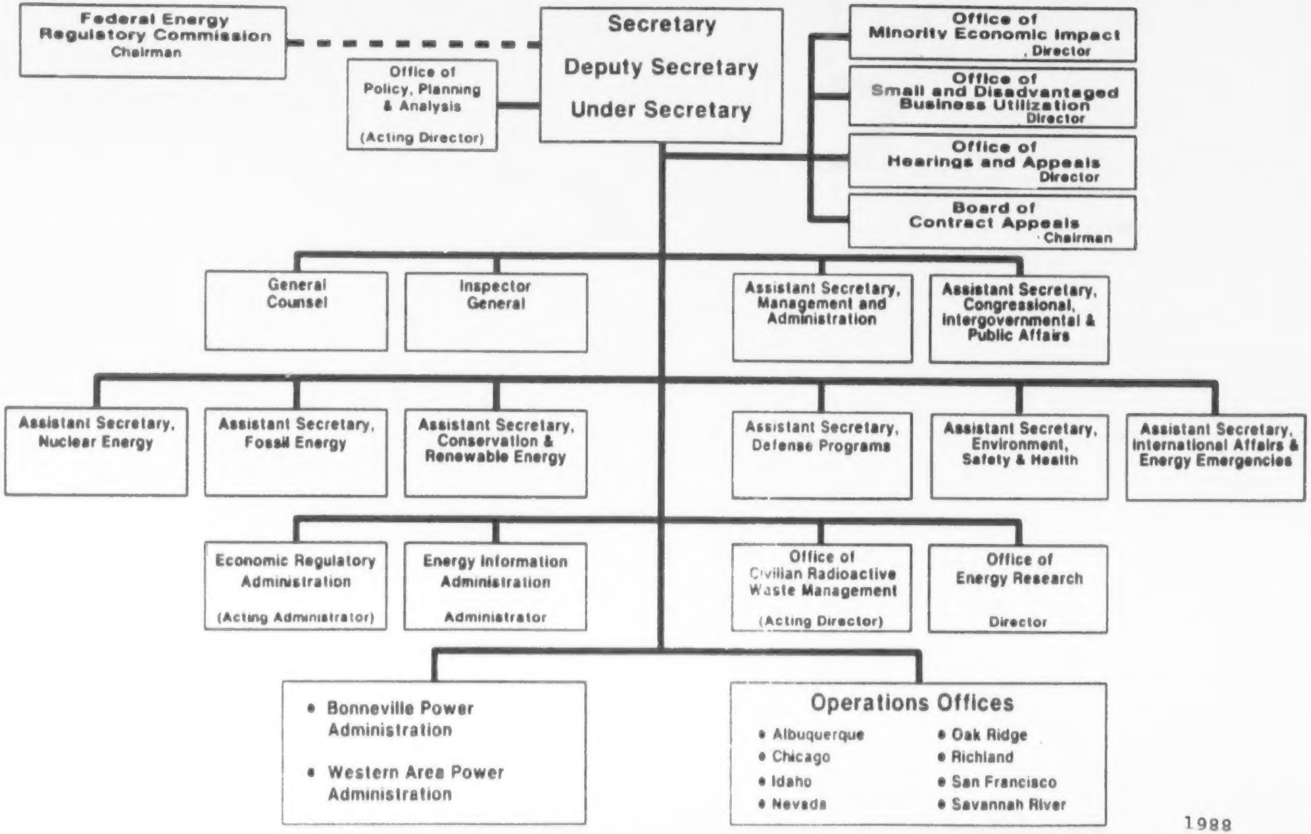


THE DEPARTMENT OF ENERGY


Federal Energy Regulatory Commission
Chairman
Secretary
Deputy Secretary
Under Secretary
Office of Policy, Planning & Analysis
(Acting Director)
Office of Minority Economic Impact
, Director
Office of Small and Disadvantaged Business Utilization
Director
Office of Hearings and Appeals
Director
Board of Contract Appeals
Chairman
General Counsel
Inspector General
Assistant Secretary, Management and Administration
Assistant Secretary, Congressional, Intergovernmental & Public Affairs
Assistant Secretary, Nuclear Energy
Assistant Secretary, Fossil Energy
Assistant Secretary, Conservation & Renewable Energy
Assistant Secretary, Defense Programs
Assistant Secretary, Environment, Safety & Health
Assistant Secretary, International Affairs & Energy Emergencies
Economic Regulatory Administration
(Acting Administrator)
Energy Information Administration
Administrator
Office of Civilian Radioactive Waste Management
(Acting Director)
Office of Energy Research
Director
• Bonneville Power Administration
• Western Area Power Administration
Operations Offices
• Albuquerque
• Chicago
• Idaho
• Nevada
• Oak Ridge
• Richland
• San Francisco
• Savannah River

1988

CHAPTER NINE

MAJOR LEGISLATIVE ACHIEVEMENTS: HISTORICAL SUMMARIES

Since its creation, the Committee on Energy and Natural Resources and its predecessors has considered, reported, and overseen some of the most important legislation ever enacted by the United States Congress. This far-reaching legislative activity can be described in the following major areas: energy resources and development, including regulation, conservation, strategic petroleum reserves and appliance standards; nuclear energy; Indian affairs; public lands and their renewable resources; surface mining, Federal coal, oil and gas, other mineral leasing; territories and insular possessions; and water resources.

In the following pages the Committee reviews a selection of major bills and programs which have emerged from it during the past 172 years in each of these areas.

ENERGY ISSUES AND LEGISLATION

Few issues have ever had a broader impact on national security and on every citizen than energy policy. Prior to the Arab oil embargo of 1973, the Senate Energy and Natural Resources Committee's predecessors had a long history of dealing with energy questions, and as energy disruptions shocked the U.S. economy in the 1970s, the Committee took a leading role in dealing with the crisis.

The jurisdiction of the Committee beginning with its original predecessor, the Committee on Public Lands, over the Nation's public lands involved it in the leasing of rights to the energy resources found on them. These resources include an estimated 35 percent of domestic oil and natural gas, 50 percent of coal resources, and some 85 percent of the Nation's oil shale.

Overview

Through its jurisdiction in these areas, the Committee has been instrumental in the enactment of laws that today are the basis for treatment of Federally-owned fuel and energy resources and of the organization of energy activities in the Government. However, until 1971, these issues were handled individually in a piecemeal fashion; energy was not seen as a broad-based problem requiring comprehensive treatment in the form of an integrated, balanced national policy.

The existence of an abundant supply of most forms of energy had until then appeared to be assured, and the need for comprehensive management and conservation of energy resources simply was not perceived. Likewise, the need for achieving balanced utilization and the avoidance of over-dependence on a single fuel resource was not foreseen. Thus the policies and programs enacted into law by Congress were developed to meet specific, limited needs of managing relatively isolated or minor aspects of energy questions. The Nation had evolved a *de facto* energy policy from a welter of laws enacted at different times, responsible for the narrow aspects of energy issues, and with no regard to their interrelationship.

In the mid-1960s, however, conditions were changing. Growth in demand for energy resources was approaching the point where it was perceivable that there could be future problems in meeting it; the United States became increasingly reliant on oil imports; natural gas shortages occurred; demand for electricity was rising dramatically; and environmental restrictions were imposed on some fuels (particularly high-sulfur coal) in the late 1960s and in the 1970s. These were the factors that preceded the sudden awakening of public awareness in the wake of the energy supply crisis that accompanied the Arab oil embargo in 1973.

In 1971, the Senate Interior Committee took the lead in gaining agreement to S. Res. 45 (92d Congress), which established the National Fuels and Energy Policy Study. This inter-committee study, under direction of the Interior Committee, became the primary vehicle of the Senate for coordination of energy issues and for determining the policy issues at stake in connection with energy.

Evolution of Energy Issues and Legislation

Some of the legislation that remains a keystone of energy management and organization today was enacted by the committees preceding the Interior Committee. Laws pertaining to fuel resources have accumulated over the years, but the pressures that shaped our present system for handling energy problems became more pressing in the 1970s.

Laws Enacted Through Predecessor Committees Before 1946

Legislation relating to fuels and energy resources was confined until recently to laws dealing with leasing and disposition of resources in publicly owned lands, and to establishing the units of the Federal Government dealing with resource data and research.

Before the Interior Committee was formed in 1946, one of its predecessors, the Mines and Mining Committee, reported the law that still is the basis of leasing energy resources on the Federal lands: The Mineral Leasing Act of 1920 (P.L. 66–146, 41 Stat. 437). Although it has been amended many times for specific purposes, the basic law still stands, providing the fundamental authority and procedures for the leasing of mining and exploration rights on the public lands. Leasing regulations, bidding procedures, and leasing requirements are spelled out in this act and the amendments to it. It applies specifically to oil, gas, sodium, sulfur, potassium, coal, phosphate, oil shale, and certain other minerals.

Several of the agencies of the Federal Government that play central roles today in energy resource development, and whose programs remain under the jurisdiction of the Committee, were established before 1946. The Geological Survey was established in 1879 as a legislative provision in an appropriations bill (45th Congress, 20 Stat. 394). Its mandate is to examine the geological structure and the mineral resources of the national domain; it has been given many added responsibilities and is today a key energy resource data gathering agency. Additionally, it has gained enforcement and inspection authority in the regulation of conditions for exploration and production under mineral leases on Federally owned areas, both on land and offshore.

In 1910, the Bureau of Mines was established (P.L. 61-179, 36 Stat. 369) and became an important energy agency in the Federal Government. It is charged with economic and statistical analyses of mineral resources and the development of improved mining technology.

The Bureau of Land Management (BLM) was established by Reorganization Plan Number 3 of 1946. Under this plan submitted by President Truman and approved by the Congress, the General Land Office and the Grazing Service of the Interior Department were consolidated into a new Bureau of Mines within the Department of the Interior. The BLM is responsible for management of Federal lands and the mineral rights associated with them, and thus for the programs that carry out policies under Committee jurisdiction.

Taken together, the Bureau of Mines, Geological Survey, and the Bureau of Land Management, all located within the Department of the Interior, comprised in 1946 the energy agencies of the Federal Government dealing with petroleum, coal, shale oil, and gas supplies on the Federal lands. The Federal Power Commission, under the purview of the Commerce Committee and the only other major energy agency then, was responsible for regulation of natural gas and hydroelectric power. The Mineral Leasing Act, within the jurisdiction of the Public Lands Committee, established the policy of leasing the fuel and mineral resources of the public lands, and the procedures for this. Beyond these elements, there was no overall energy policy, or even policies for individual fuels, in 1946, when the Interior Committee came into existence.

Energy Activities of the Interior Committee After 1946

In the period between 1946 and 1970, treatment of energy issues continued to be incremental, with no driving need for an overall energy policy. The Interior Committee continued to handle legislation dealing with leasing of mineral rights on the public lands. In 1947 the Acquired Lands Mineral Leasing Act (P.L. 80-382, 61 Stat. 913) was passed, extending the mineral leasing authority of the Federal Government to acquired lands that had not been included in the lands governed by the 1920 act and its amendments. In 1953, the Submerged Lands Act (P.L. 83-31, 67 Stat. 29) and the Outer Continental Shelf Lands Act (P.L. 83-212, 67 Stat. 462) established Federal jurisdiction over lands seaward of the three-mile boundary from shore that marks State jurisdiction, and established the leasing procedures for oil and gas deposits under these lands.

A number of laws regulating aspects of coal mining were enacted in the 1950s. The Committee was active in the Coal Mine Fire Control Act of 1954 (P.L. 83-738, 68 Stat. 1009), the Anthracite Coal Resources Conservation Act of 1955 (P.L. 84-162, 69 Stat. 352), and coal mine safety provisions in laws enacted in 1941, 1947, and 1952. Those efforts culminated in the Federal Coal Mine Health and Safety Act of 1969 (P.L. 91-173, 83 Stat. 742), which provides for safety and health standards and requirements in coal mines.

This attention to coal mining regulation occurred during a period of continuous decline of coal utilization as a proportion of the Nation's energy consumption. In 1900, coal was supplying 90 percent of the energy used in the United States. Coal dropped from half the overall energy market in 1945 to one-quarter in 1964. As a result of this decline, the period saw a continuous effort by the industry to win assistance for coal production. Oil import controls, to stimulate oil production at home and to permit wider latitude for other domestic fuel sources, were advocated by both the oil and coal industries; in 1960 the Coal Research Act (P.L. 86-599; 74 Stat. 336) was passed, authorizing the Office of Coal Research in the Interior Department to aid the research effort on mining, preparation, and utilization of coal; these initial efforts later evolved into research efforts on gasification and liquefication of coal as well.

The coal industry formed the National Coal Policy Conference in 1959 to work toward congressional action on problems connected with its concerns. The Interior Committee responded positively to demands for a national fuels policy study, and favorably reported a resolution, S. Res. 105, authorizing a comprehensive study of U.S. energy resources and problems. The resolution was adopted by the Senate on September 11, 1961, and the Committee established a National Fuels and Energy Study Group headed by Samuel G. Lasky of the Interior Department and including one member for each of the three mineral fuels industries: natural gas, oil, and coal.

The study group submitted its report in September of 1962, entitled "Report of the National Fuels and Energy Study Group on an Assessment of Available Information on Energy in the United States." It was a factual report, outlining policies, problems, and industry points of view; it was intended as background for possible action by the Interior Committee to establish a national fuels policy, but no action was taken immediately following the report. However, the report did serve to establish the comprehensive energy policy role of the Interior Committee.

During the 1960s the energy picture for the U.S. began to change in critical ways, bringing issues into focus that eventually led to a central role for the Interior Committee in developing the Nation's energy policy.

Growth in demand for energy by the late 1960s was beginning to strain available fuels and resources. Yearly consumption had risen from 34 quadrillion Btu (quads) in 1950 to over 68 quads in 1970, and per capita energy use had increased almost as dramatically: from 225 million Btu to 340 million Btu between 1950 and 1970. The Nation had become increasingly dependent on imported fuels, particularly petroleum, during the 1960s. Environmental protection legislation had placed some important constraints on energy industries, notably restricting the use of high-sulfur coal, and encouraging the importation of large quantities of low-sulfur fuel oil.

Natural gas shortages came into focus in the late 1960s also. This was a troubling situation because of the increasing share of the energy market assumed by natural gas. Continuously increasing demand was rising faster than any other energy resource and was outstripping increased production. Also, electric power generation demand grew faster than had been expected, and coal supply problems arose at electric utility plants in the early 1970s.

Another aspect of the energy picture that was influential in the 1950s and 1960s, although outside the purview of the Interior Committee, was the advent of nuclear power. The Atomic Energy Act of 1954 had established the U.S. Government as a strong financial and research supporter in the development of nuclear power generation, and it was widely expected that this form of electricity production would increase rapidly beginning in the late 1960s; however, delays in bringing nuclear power generating plants on line, the slump in the electric growth rate in 1974, regulatory problems, and vocal public concern over the safety of nuclear plants caused serious doubt that the growth of nuclear energy would be as large or as rapid as had been expected. This put additional pressures on oil and gas resources in the late 1960s and 1970s.

The Interior Committee's role in managing public lands energy resources, and its jurisdiction over the existing energy agencies of the Federal Government, except for the Atomic Energy Commission and the Federal Power Commission, gave it a focal role in the energy developments of the early 1970s.

S. Res. 45: The National Fuels and Energy Policy Study

By 1970, it was clear that energy problems were assuming the appearance of a crisis—and the sometimes conflicting or contradictory nature of the piecemeal energy policies developed over the years was beginning to be perceived as a serious obstacle to dealing with energy problems comprehensively. The stage was set for a revolutionary change in the Nation's energy situation.

In response to this perception, a bill (S. 4092, 91st Congress) to establish a National Commission on Fuels and Energy was introduced by Senator Jennings Randolph (D., WV) with 60 co-sponsors. In September 1970, hearings were held on the proposal by the Interior Committee's Subcommittee on Minerals, Materials, and Fuels.

The Commission was to be composed of 21 members, three from the Senate, three from the House, and 15 selected by the President—six from the public, 9 from Federal agencies. Its purpose was to make a full and complete investigation and study of "the energy demands of the fuels and energy resources, requirements and policies of the United States."

At the hearings, such problems as conflicting regulatory, development and environmental policies, and the growing dependence on foreign energy sources were discussed. The Commission concept won support from most energy industry witnesses. Testimony at the hearings agreed on the need for a long-range, coordinated national energy policy to resolve the conflicting courses of action of the various Federal agencies, and to identify energy needs and goals. It was pointed out that a different agency regulated each type of energy production.

Despite the agreement on the need for a coordinated national energy policy, no action was taken toward enactment of the National Commission on Fuels and Energy. The Administration claimed that the Commission would duplicate on-going efforts in the Executive Branch to study the energy situation. The force of this opposition persuaded both Senator Randolph, the bill's sponsor, and Interior Committee Chairman Jackson that the best approach would be a Congressional study, performed by Senate staff members, with the same basic mandate of the commission—to assess the policy needs and energy situation generally and reach conclusions on the proper approach to achieving a comprehensive energy policy.

Accordingly, on February 4, 1971, Senator Jackson and Senator Randolph introduced S. Res. 45, which authorized the Senate Committee on Interior and Insular Affairs to initiate a National Fuels and Energy Policy Study, with *ex officio* membership in the study by Chairmen and ranking minority members of the Committees on Commerce and the Committee on Public Works, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy.

The resolution directed the membership of the Energy Policy Study to:

> (a) Make a full and complete investigation and study . . . of the current and prospective fuel and energy resources and requirements of the United States and the present and probable future alternative procedures and methods for meeting anticipated requirements, consistent with achieving other national goals . . . and
>
> (b) Make a full and complete investigation and study of the existing and prospective governmental policies and laws affecting the fuels and energy industries with the view of determining what, if any, changes and implementation of these policies and laws may be advisable in order to simplify, coordinate, and provide effective and reasonable national policy to assure reliable and efficient sources of fuel and energy adequate for a balanced economy and for the security of the United States. . . .

The resolution also outlined a number of specific factors for the Study to consider, including the proved and predicted availabilities of our national fuel and energy resources, and worldwide trends in consumption and supply, projected national energy requirements in the short and long run, and technological development affecting energy production.

Hearings before the Interior Committee were held in February of 1971. Agreement was again found on the need for a focused approach to the formulation of a national fuels and energy policy.

Senator Jackson, in his introductory statement at the hearings, called S. Res. 45 "one of the most monumental undertakings in the history of energy resources management . . . the first time that the entire spectrum of energy production and its impact on society have been viewed as a comprehensive policy question."

On April 5, 1971, the Interior Committee favorably reported S. Res. 45 to the Senate. In the report, it stated:

> No previous attempt has been made to make a comprehensive analysis of existing energy policies or of identifying conflicting policies, of describing systematically the numerous energy problem areas, and, most important, to suggest an internally consistent set of alternative policies that

would lead to solutions of present problems and prevent future ones.

On May 3, 1971, the Senate passed S. Res. 45 without debate. The Study was originally authorized through February 29, 1972; however, it was extended several times.

During the 93d Congress, the continuation of serious energy resource problems and the fragmentation of congressional jurisdiction over the various energy issues prompted a consideration of possible reorganization of energy jurisdiction in the Senate. At the direction of Majority Leader Mike Mansfield (D., MT), a study was carried out to examine energy jurisdictions and recommend possible changes to better coordinate them. The study resulted in a recommendation that the existing National Fuels and Energy Policy Study be continued to serve as the coordinative mechanism for energy issues in the Senate, and that it be expanded to include *ex officio* members from the Committees on Finance, Foreign Relations, Government Operations, Labor and Public Welfare, in addition to the *ex officio* members originally part of the study (Commerce, Public Works Committees, and the ranking Senate majority and minority members of Joint Committee on Atomic Energy).

That recommendation was carried out in S. Res. 245 of the 93d Congress, the funding authorization for the Interior Committee, which passed the Senate on March 1, 1974, and specified the additional members for the study.

The National Fuels and Energy Policy Study became the major focus in the Senate for comprehensive energy studies and legislative recommendations on energy.

The Energy Policy Study had produced some 65 Committee Prints by mid-1975, and had published 77 hearings. The Committee Prints were the main form in which the Study produced its background reports on both general and specific energy issues; hearings were held occasionally on general policy issues but more often on specific legislation.

Examples of the comprehensive policy studies carried out by the Study and appearing among the Committee Prints include such titles as:

—"The Evolution and Dynamics of National Goals in the United States" (1971);

—"Considerations in the Formulation of National Energy Policy" (1971);

—"Studies and Reports Relevant to National Energy Policies" (1972);

—"Goals and Objectives of Federal Agencies in Fuels and Energy" (1972);

—"Conservation of Energy" (1972);

—"Legislative Authority of Federal Agencies with Respect to Fuels and Energy" (1973);

—"Federal Energy Organization" (1973);

—"Estimates and Analysis of Fuel Supply Outlook for 1974" (1974);

—"Energy Policy Papers" (1974);

—"Highlights of Energy Legislation in the 93rd Congress" (1975).

The Study issued prints focusing on specific issues affecting energy policy. Among these were:

—"Water and Energy Self-Sufficiency" (1974);

—"Factors Affecting Coal Substutition for Other Fossil Fuels in Electric Power Production and Industrial Uses" (1975);

—"The Trans-Alaska Pipeline and West Coast Petroleum Supply, 1977-1982" (1974);

—"Natural Gas Policy Issues and Options" (1973); and

—"Effects of Calvert Cliffs and Other Court Decisions upon Nuclear Power in the United States" (1972).

The hearings held in conjunction by the Committee and the Fuels and Energy Study ran the gamut of energy legislation under consideration by the Congress in the 1970s. The introduction of bills and the passage of legislation pertaining to energy grew enormously in the period after 1971. In the 92d Congress (1971-1972), some 350 bills on energy issues were introduced, a dramatic increase over previous Congresses, but a small number compared to the over 2,000 bills introduced in the 93d Congress (1973-1974) pertaining to energy. The number of enactments also dramatically increased—from only three major energy laws in the 92d Congress to nearly 40 energy or energy-related laws passed in the 93d.

That dramatic increase reflected the 1973 energy crisis, stimulated in large part by the Arab oil embargo. Increasing public interest in energy resource issues naturally caused a corresponding demand both inside and out of Congress for remedial legislative action. The Committee was well-prepared when the embargo hit to play a major role in shaping that legislation.

ENERGY ISSUES SINCE 1973: OVERVIEW

The Arab oil embargo of 1973 underlined the value of the Committee on Interior and Insular Affairs' ongoing National Fuels and Energy Policy Study, which had gotten underway in 1971. The dozens of hearings and reports involved in the Study placed the Committee in the forefront of energy policymaking during the upcoming difficult years of shortages and skyrocketing prices. As Congress wrestled with dozens of major pieces of energy legislation during the following decade and a half, the Committee's energy expertise proved invaluable.

When the embargo was imposed in October 1973, the Committee had already laid the groundwork for the first major post-embargo legislation enacted by Congress: authorizing construction of the Trans-Alaska Oil Pipeline (P.L. 93-153, 87 Stat. 576). Committee hearings held early in the year determined America's need for the vast Alaskan oil reserves and that a trans-Alaskan pipeline could be built with adequate environmental safeguards. Legislation was reported by the Committee June 12, 1973, passed by the Senate on July 17, 1973, and approved by Congress November 12, 1973.

The Trans-Alaska Pipeline System (TAPS) has more than fulfilled it anticipated role in enhancing U.S. energy security; completed in 1977 at a cost of $9 billion, TAPS now carries 22 percent of the Nation's oil production. The pipeline's environmentally conscious construction has proved similarly successful at protecting wildlife and the natural landscape.

Just two days after approval of the Alaska pipeline, Congress cleared another Committee-reported energy measure: the Emergency Petroleum Allocation Act of 1973 (P.L. 93-159, 87 Stat. 627). The legislation, required to mitigate the economic disruption caused by the oil embargo, ordered the President to allocate oil, gasoline and other petroleum products to prevent regional shortages. Chairman Jackson called for Federal intervention "to share the shortages as fairly as possible."

At the same time, the Committee took the lead in establishing new Federal research programs to reduce U.S. dependence on foreign oil, reporting research bills on solar energy, geothermal energy, energy conservation, fossil fuels, and other non-nuclear technologies. Those efforts bore fruit in 1974, with enactment of the Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-409, 88 Stat. 1069), the Geothermal Energy Research, Development, and Demonstration Act of 1974 (P.L. 93-410, 88 Stat. 1079), the Solar Energy Research Development, and Demonstration Act of 1974 (P.L. 93-473, 88 Stat. 1431), and the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577, 88 Stat. 1878). The Energy Reorganization Act of 1974 (P.L. 93-438, 88 Stat. 1233) established a new Energy Research and Development Administration to run the new programs, as well as research on energy. The Committee also helped create the new Federal Energy Administration to implement emergency energy measures, with the Federal Energy Administration Act of 1974 (P.L. 93-275, 88 Stat. 96).

As the 94th Congress began to grapple with the energy problem, Chairman Jackson articulated the need for a new direction in energy policy:

> The inefficient use and outright waste of energy resources in the United States has been amply documented. Even before the OPEC cartel made energy conservation an urgent necessity, it was obvious that a new approach to energy use in this country was essential. By now it should be clear that conservation represents the most effective way to reduce reliance on imported oil in the immediate future. And there is no doubt that, over the longer term, a serious national energy conservation effort can produce significant economic, political, and environmental benefits.
>
> Conservation legislation must be high on the agenda of the 94th Congress. The impact of higher prices has already stimulated major conservation efforts in the private sector, and these efforts should increase in the months ahead. At the same time, Congress must provide a statutory foundation for future conservation efforts in such areas as housing and transportation where national standards or guidelines will be necessary for effective conservation.[1]

The 94th Congress answered the Chairman's call for increased energy conservation efforts with the 1975 Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871) and the Energy Conservation and Production Act of 1976 (P.L. 94-385, 90n Stat. 1125). The Energy Policy and Conservation Act, the first in a series of comprehensive energy policy bills designed to permanently assure U.S. energy security, established many of the major energy programs that are still operating today, such as automobile fuel efficiency standards, the Strategic Petroleum Reserve, and U.S. participation in the International Energy Program. The new law, which reflecte much of what the Committee learned in the National Fuels and Energy Study, also authorized a phaseout of the oil price controls that has first been imposed by President Nixon in 1971.

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[1] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Readings on Energy Conservation. Committee Print, 94th Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1975. p. III.

The Energy Conservation and Production Act, passed the following year, required federal standards for building efficiency and authorized weatherization grants for low-income residences. The Committee also helped shape 1976 legislation to open commercial production of the Naval Petroleum Reserves oil fields (P.L. 94-258, 90 Stat. 303) and requiring the President to designate a route for a future natural gas pipeline from Alaska's North Slope fields (P.L. 94-586, 90 Stat. 2093).

The Committee's jurisdiction over energy development and security was consolidated in 1977, with the abolition of the Joint Committee on Atomic Energy as well as with the transfer of other energy jurisdictions from other Senate standing committees. As a result of the reorganization, the Committee on Interior and Insular Affairs was renamed the Committee on Energy and Natural Resources, reflecting its preeminent role in these policy areas.

Immediately, the Committee began carrying out its expanded energy mandate and working with the proposals of the new Carter Administration. Chairman Jackson and other committee leaders were crucial in the 1977 establishement of the Department of Energy, one of Carter's top priorities, with the Department of Energy Organization Act (P.L. 95-91, Stat. 565). The Committee devoted long hours of study to its sections of the President's five-part energy initiative, which ultimately resulted in the five separate laws frequently referred to as the National Energy Act of 1978.

They were the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617, 92 Stat. 3117), the Energy Tax Act of 1978 (P.L. 95-618, 92 Stat. 3174), the National Energy Conservation Policy Act (P.L. 95-619, 92 Stat. 3206), the Natural Gas Policy Act of 1978 (P.L. 95-621, 92 Stat. 3350), and the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-650, 92 Stat. 3289). Among the initiatives in those laws were incentives for independent electricity generation, residential "energy audits" by large utilities, requirements for appliance efficiency standards, weatherization grants for schools and hospitals, and the phaseout of price controls on natural gas and elimination of separate inter-state and intra-state markets for natural gas.

The Committee also took up legislation in the nuclear area, reporting legislation to clean up hazardous uranium residue generated under Federal contracts. The proposal became the Uranium Mill Tailings Radiation Control Act of 1978 (P.L. 95-604, 92 Stat. 3021).

A decade of work by the Committee on synthetic fuels commercialization culminated in the 1980 Energy Security Act (P.L. 96-294, 94 Stat. 611), which established the Synthetic Fuels Corporation to provide loans, loan guarantees, price guarantees and other assistance to synthetic fuels ventures. The Committee's studies of the subject had turned up overwhelming evidence that the energy resources of the United States, such as coal, oil shale, and tar sands, could be turned into useful liquid and gas fuels to reduce the need for energy imports. Although Congress terminated the Corporation in 1985, five commercial-scale synfuels projects that were assisted by the Federal Government continue to operate successfully. These include:

—Cool Water Project in California;
—Dow Syngas Project in Louisiana;
—Parachute Creek Project (Unocal) in Colorado;
—Forest Hill Heavy Oil Project in Texas;
—The Great Plains plant (sold to Basin Electric Power Cooperative by DOE in 1988);

Other important initiatives in the Energy Security Act include the Solar Energy and Energy Conservation Bank, which subsidized energy conservation measures and alternative energy equipment, and Federal assistance for alcohol fuels plants and geothermal development.

The arrival of the Reagan Administration in 1981, and the subsequent declines in energy prices, substantially reduced the number of energy security initiatives examined by Congress. But the Committee refused to be lulled into a false sense of security, continuing to devote legislative and oversight time to such issues as natural gas pricing and supply, energy emergency preparedness, coal slurry pipelines, energy conservation standards, and restrictions on the use of oil and gas.

Nuclear energy issues have required a significant Committee attention in the 1980s, with the Committee consistently seeking to preserve the nuclear power option for the Nation's future. Committee action has been crucial in developing systems for the safe disposal of low- and high-level nuclear waste and extending and improving financial protection to the public in case of nuclear accidents.

The Low-Level Radioactive Waste Policy Act of 1980 (P.L. 96–573, 94 Stat. 3347) authorized States to enter into regional compacts for disposal of low-radiation waste material. Congress and the Committee strengthened the law in 1985 (P.L. 99–240, 99 Stat. 1842) by creating a series of deadlines and milestones for the development of State and regional disposal facilities.

For the disposal of spent nuclear fuel and other high-level waste, the Committee led the way in enactment of the Nuclear Waste Policy Act of 1982 (P.L. 97–425, 96 Stat. 2201). The law established an office in the Department of Energy to locate, build and operate environmentally sound, deep geologic repositories for such waste, and to study the need for a "monitored retrievable storage" facility for long-term storage. When political controversy paralyzed the program a few years later, the Committee took the lead in getting it moving again with revisions contained in the Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203, 101 Stat. 1330).

One of the Committee's most recent successes was the extension of the Price-Anderson Act nuclear liability system, cleared by Congress in August 1988. The new law increases industry liability for accidents almost tenfold, from about $700 million to $7 billion, and ensures swift congressional consideration of accident claims above that level.

GOVERNMENT REORGANIZATION IN RESPONSE TO THE ENERGY CRISIS

The Arab oil embargo of October 1973 made it clear that the existing structure of the executive branch could not properly respond to the growing emergency. To replace the interagency task forces and White House policy offices that had sprung up in response to the crisis, Committee Chairman Henry M. Jackson called on Congress to "build a permanent structure which gives consideration of the full range of national energy policy." That farsighted vision led to the creation of the Federal Energy Administration, the Energy Research and Development Administration, and, ultimately, a cabinet-level Department of Energy responsbile for ensuring diverse, secure energy supplies for America's future.

President Nixon responded to threats to the Nation's energy security by setting up the Special Committee on Energy within the White House in April 1973, superseded in June by the Energy Policy Office. Many Federal agencies and departments, particularly the Department of the Interior, were also responsible for implementing various energy-related programs. A 1973 staff report to the Committee outlined the serious deficiencies with this arrangement:

> Until recently, surprisingly little attention has been given to the organization of the Federal government to formulate and implement energy policy. The great size of the energy industries in economic and financial terms and their obvious critical significance to the well-being of society, however, have attracted the interest of all levels of government. A complex body of policy has evolved which constitutes a pervasive, if uncoordinated, Federal involvement in many aspects of the energy system. The policy is presently administered by a diffuse and ill-defined assembly of agencies throughout the Executive branch.
>
> A survey made by the Congressional Research Service of the major Federal reorganization proposals of the past 40 years reveals no specific consideration for fuel and energy matters until the relatively modest energy recommendations of the Ash Council. Similarly, a review of over 100 studies of fuel and energy matters found that they included very few remarks on organization and even those few were in general and vague terms.
>
> These studies are evidence of the fact that energy has not be viewed as an organizing concept for government. The existing Federal energy responsibilities are comprised of narrow programs and activities which were individually initiated in response to relatively specific needs, often not primarily viewed as energy needs.[2]

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[2] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Federal Energy Organization. Committee Print, 91st. Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1973.

Federal Energy Administration

Because it was clear that the White House Energy Policy Office lacked sufficient power to overcome deep-seated interagency disputes about dealing with the problem, it was replaced by the Federal Energy Office in December 1973. In the meantime, the Senate was working on a bill (S. 2776), written primarily by Senator Jackson, to establish a Federal Energy Emergency Administration. Although the legislation was reported by the Government Operations Committee, of which Senator Jackson was also a senior member, the Interior and Insular Affairs Committee, with jurisdiction over many Government energy programs, was also closely involved.

As passed by the Senate on December 19, 1973, the Federal Energy Emergency Administration would be required to gather and disseminate complete statistics on the energy industry. Transferred to the new agency would be the Offices of Petroleum Allocation, Energy Conservation, Oil and Gas, and Energy Data and Analysis, all from the Department of the Interior. The new agency also was to acquire the Cost of Living Council's Energy Division and other programs as determined by the President. The President would be required to make recommendations for a permanent energy organizational structure before the Federal Energy Emergency Administration expired June 30, 1975.

Senate and House conferees adopted the bill largely as passed by the Senate, although presidential authority to move additional programs to the new agency, now called the Federal Energy Administration (FEA), was eliminated. The agency's life also was extended by a year, to June 30, 1976. President Nixon signed the Federal Energy Administration Act on May 7, 1974 (PP.L. 93-275, 88 Stat. 96).

FEA was extended for 18 months by the 1976 Energy Conservation and Production Act (P.L. 94–385, 90 Stat. 1125), which upgraded the agency's statistical functions by establishing an Office of Energy Information and Analysis. The agency was merged into the new Department of Energy in 1977.

The programs run by FEA were often the focus of controversy during the early years of the energy crisis, and the Committee monitored them closely. FEA's authorities included implementation of mandatory energy conservation measures, enforcement of oil price controls, allocation and rationing, national energy planning, energy industry regulation, and collection of energy statistics. At a February 13, 1975, hearing on emergency presidential energy authority, for example, Chairman Jackson questioned Thomas O. Enders, Assistant Secretary of State for Economic and Business Affairs, about oil price floors and decontrol:

> The CHAIRMAN. Mr. Secretary, right now, how do you explain to the consumers that you're going to put a floor under it? I'm not necessarily opposing the proper kind of floor, but how do you explain your putting a floor under it at a time when you're taking all price freezes off? You want to guarantee a profit; yet, on the other hand, you put no limit on the profit by price. Would you explain that?
>
> Mr. ENDERS. You want to make sure there is a minimum profit guaranteed by a floor price or a tariff or by other

means. On the other hand, the action of a floor price or a tariff or other means, would not be to guarantee an unlimited profit.

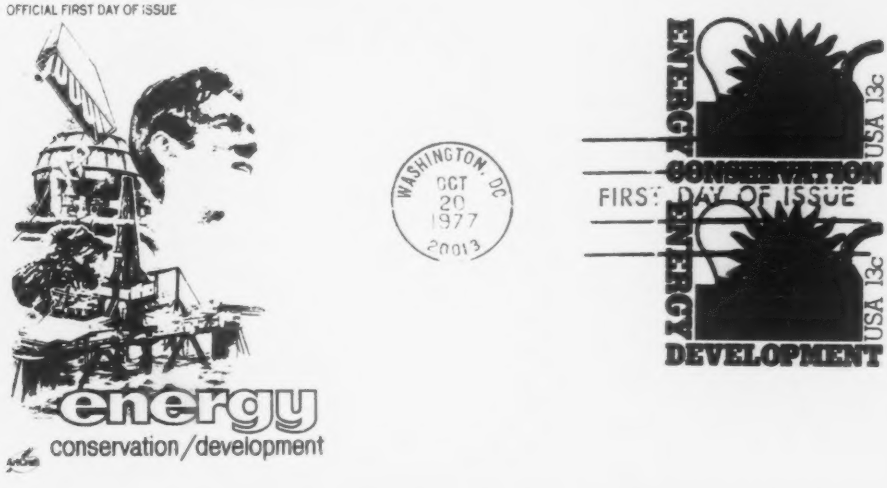
If you take off present price controls, it is essential, the administration feels, to recoup that benefit in considerable measure by an excess profit tax.

The CHAIRMAN. Yes, but what it does to the economy is devastating. You can talk about all the taxes in the world, but to the person who pays the light bills, the utility bills, the electric bill, you name it, it's all pervasive, it cuts right across the economy.

When you jump the price of oil, the remaining oil that's now controlled, from $5.25 and throw the excise tax on, it comes to $13.40 in one fell swoop. You can't talk in terms of other than a devastating impact on the price structure of the economy as a whole.

I don't care what you try to recoup later in taxes, it's the price that has devastated the economic fabric, and it's all pervasive, it touches everything.

We had the economists in here yesterday, and the former administrator of FEA, and there was general agreement on this point.



U.S. Commemorative First Day Cover and two postage stamps with the theme of "energy conservation and development" issued from Washington, DC, October 20, 1977

Energy Research and Development Administration

During the same period Congress was establishing FEA, legislative efforts were moving forward to strengthen Federal energy research and development. Congressional consensus rapidly developed that energy research dollars had focused too much on nuclear energy, through the Atomic Energy Commission (AEC), and that the AEC's role in promoting nuclear power conflicted with its authority to regulate nuclear safety. Chairman Jackson and other

Committee members played key roles in shaping the legislation that created the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission (NRC) in 1975.

Senator Jackson was particularly concerned that ERDA devote sufficient resources to energy conservation, renewable energy, and other non-nuclear sources of energy. When the energy research bill reached the floor, Jackson persuaded the Senate to attach provisions from his National Energy Research and Development Policy Act (S. 1283) that had just been approved by the Senate. "Without such policy legislation, I share the concern of many of my colleagues that the ERDA legislation will be deficient," Jackson declared on the floor. "We will have established a one-sided agency—heavily oriented toward its nuclear responsibilities."

As finally passed by Congress and signed by President Ford on October 11, 1974, the Energy Reorganization Act of 1974 (P.L. 93-438, 88 Stat. 1233) transferred AEC's nuclear research and development, radioactive waste, and nuclear weapons programs to ERDA, and placed regulation and licensing with a new Nuclear Regulatory Commission (NRC). ERDA also received the Interior Department's Offices of Coal Research and Oil and Gas, the Bureau of Mines' fossil fuel research programs, the National Science Foundation's research programs on geothermal energy and solar heating and cooling, and the Environmental Protection Agency's research on electric and other alternative vehicles.

The language from the Senate-passed S. 1283 was dropped from the final energy reoganization bill, but it soon became law on its own, as the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577, 88 Stat. 1878). That and other energy research, development, and demonstration laws passed during the same period established a balanced Federal energy research program within ERDA, as envisoned by Chairman Jackson and the Committee.

Department of Energy

The Committee's role in energy organization and policy was substantially broadened in the 95th Congress, thrusting upon its members a large part of the responsibility for shaping President Carter's planned Department of Energy. (The role of the Energy and Natural Resources Committee in reviewing nominations to various offices therein is discussed more fully in Chapter 3.) The legislative reorganization came in February 1977, when the Senate voted to abolish the Joint Committee on Atomic Energy and transfer its jurisdiction over non-military nuclear energy development to the Committee on Interior and Insular Affairs, which was then renamed the Committee on Energy and Natural Resources. The committee now had jurisdiction over development of all energy sources and was determined to establish a balanced, coherent national energy program.

Chairman Jackson had foreseen those concerns the previous year, in a Committee report on Federal energy reorganization:

> For the past six years, there have been increasing doubts in the Congress and in the executive branch about

> the organization of the Federal Government for energy affairs. This concern continues despite the fact that numerous reorganizations have taken place during this time in an effort to manage the Nation's energy problems more effectively. Since 1973, the energy functions of the Executive Office of the President have been reorganized several times; the Atomic Energy Commission has been abolished and two new agencies, the Energy Research and Development Administration and the Nuclear Regulatory Commission have been established to absorb its functions; the Federal Energy Administration was established, expired in mid-1976, and then was temporarily extended despite numerous complaints about its role, structure and performance.
>
> Proposals for a major department focusing on energy and natural resources continue to receive attention and wide debate. This concern over Federal organization—and the sense of an urgent need to reorganize—has a long history. Since 1849, when the Department of the Interior was established, the problem of properly organizing a continually growing Federal Government for the management of its affairs has resulted in proposals to re-arrange the administrative components which govern energy and natural resources. There has been a continual evolution of the organizing concepts which predominated in these proposals over the years, leading up to the current perception of energy and fuel resources as a central focus in organizational patterns.[3]

President Carter's proposal for a Department of Energy was cosponsored in the Senate by Senator Jackson (S. 826), although the Chairman was concerned about potential conflicts between the new department and the Department of the Interior. The Committee was particularly uneasy about Carter's proposal to divide responsibility for public lands leasing between the two departments, a provision Jackson called "the most important aspect" of the legislation. Congress addressed the problem by clearly delineating which components of the leasing process would be handled by each department. Subsequently, *all* leasing functions were returned to the Department of the Interior.

The final legislation the Department of Energy Organization Act (P.L. 95-91, 91 Stat. 565), signed on August 4, 1977, combined the functions of ERDA, FEA, and the Federal Power Commission (FPC), which regulated interstate natural gas and electricity rates and non-Federal hydroelectric projects, into the new Department of Energy (DOE). FPC's authorities, combined with the Interstate Commerce Commission's power over interstate oil pipelines, were transferred intact to an independent commission within DOE, the Federal Energy Regulatory Commission (FERC).

Under the law, the Energy Secretary, a deputy secretary, an under secretary, a general counsel and eight assistant secretaries must be appointed by the President and confirmed by the Senate, along with the five members of FERC. Eleven line functions were spelled out as direct responsibilities of the assistant secretaries: fuel supply and leasing procedures, research and development, environmental protection, international energy policy, nuclear weapons and military reactors, intergovernmental relations, competition and consumer affairs, nuclear waste, energy conservation, power marketing, and public and congressional relations.

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[3] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Federal Energy Reorganization: Historical Perspective. Committee Print, 94th Cong., 2nd Sess. Serial No. 94-46 (92-136). Washington, U.S. Govt. Print. Off., 1976.

Federal responsibility for energy statistics and analysis was given to a new Energy Information Administration within DOE, headed by a presidentially-appointed and Senate-confirmed administrator. Other presidential appointees are the DOE inspector general, the administrator of the Economic Regulatory Administration (responsible for oil price controls, fuel switching, and electricity imports), and the director of the Office of Energy Research.

Along with the functions of ERDA, FEA, and FPC, the new Department received from the Interior Department the five Federal power marketing administrations, which distribute and sell electricity from Federal dams, and various fuel-related functions of the Bureau of Mines. From the Department of Housing and Urban Development, DOE was given authority to write energy conservation standards for new buildings. The Naval Petroleum Reserves and Oil Shale Reserves were transferred from the Department of Defense, along with the Division of Naval Reactors and the Division of Military Applications. From the Commerce Department came the management of industrial energy conservation programs.

Since the establishment of DOE, the Committee has maintained close scrutiny over its operations, including review and approval of many presidential appointments to the Department. Efforts by the incoming Reagan Administration in 1981 to dismantle DOE were strongly resisted by the Committee—then headed by Senator James A. McClure (R., ID)—and the Administration quickly dropped the idea. In fact, the Administration now strongly supports the key non-defense programs, such as the Strategic Petroleum Reserve and coal technology demonstration programs, that have been maintained and nurtured largely by the Committee's unswerving support.

In his confirmation hearings before the Committee in January 1981, President Reagan's first Energy Secretary, James Edwards, was warned by Chairman McClure that the Committee would reject any nominee who insisted on abolishing DOE. "While we need to remove certain federal regulations that have been imposed on the energy industry, and excessive government management of fuels, it is nevertheless the case that within the Department of Energy are many programs that are essential to our country's energy future. These programs should be centralized in a single federal agency," McClure declared.

Edwards agreed that "the mission of the Department of Energy is to serve the President, Congress and the Nation, to assure reliable supplies of reasonably priced energy, balancing net energy increments with costs and benefits, while maintaining the national security and protecting the public health and safety. Our economy, the productive machine which makes our way of life possible through meaningful jobs, is dependent on energy. We must manage the system effectively now, and plan wisely for the future."

OIL PRICE CONTROLS

Oil had first come under price controls in 1971 when President Nixon relied upon authorities granted to him in the Economic Stabilization Act (P.L. 91-379, 84 Stat. 796). That same legislation also provided authorities for allocating crude oil and products, but the Administration appeared reluctant to fully utilize it.

In November 1973, President Nixon reported to the Nation that "current and imminent energy shortages" had created "a nationwide energy emergency." The Committee, however, had already been hard at work crafting legislation that would target Federal attention to the energy problem at a time when the Committee believed the Administration's reluctance to act was imperiling the country.

Fuel shortages earlier in 1973 had built pressure for development of a mandatory fuel allocation program. Voluntary guidelines announced by the Administration in May were ineffective and by fall the Administration recognized that Congress would take more decisive action if it did not. Indeed, on May 17, 1973, the Committee had reported out S. 1570 (S. Rept. 93-159), directing the President to draw up a mandatory allocation plan for crude or product fuels found to be "currently or prospectively in extraordinary short supply nationally or in any region of the United States." The legislation had been introduced in April by Senator Henry Jackson, and the full Senate passed it, with amendments, by a decisive margin on June 5 (85-10).

The legislation provided that retailers would be able to pass along increases in wholesale costs to their customers and that supplies would be reduced proportionately to customers in the event that available supply fell below levels during an earlier base period.

The Senate approved the conference report for the Emergency Petroleum Allocation Act (P.L. 93-159, 87 Stat. 627) on November 14, 1973. As the authorities were scheduled to expire on March 1, 1975, the Committee was not long done with the issue. During the intervening period, the Arab oil embargo and a quadrupling of oil prices kept the issue of oil price and supply at the top of its agenda.

The following November, the authorities were extended an additional six months, to the end of August 1875. The Administration grudgingly accepted an extension, conceding the extension would permit a smoother phaseout of the program and a return to the free market system.

In his State of the Union message in early 1975, President Ford indicated his intention to remove all controls on oil on April 1. The Administration's position was that allowing prices for domestic oil to rise would spur production while moderating profligate consumption. The President proposed a 30-month phaseout and a price ceiling of $13.50 on all domestic oil. Decontrol sat the least well with Democrats who thought higher prices would be deleterious to the economy generally, and especially to consumers already coping with higher prices for fuel. The Congress sent President Ford a plan of its own which the President vetoed as he did a subsequent congressional initiative. President Ford eventually signed a couple of brief extensions of the oil price control authority while the Congress wrestled with designing a revised price control program acceptable to both the Congress and to the Administration.

The Committee on Interior and Insular Affairs reported S. 622 in early March 1975. The bill proposed to prohibit the lifting of controls without congressional review gave Congress the right to veto that decision. There were some among the Committee who did not feel that extension of oil price controls was appropriate; among these was Senator James McClure (R., ID), who viewed congressional review of price control initiatives by the President as "full of mischief." On the floor of the Senate in April 1975, Senator Mike Gravel (D., AK) sought to remove the price control provisions, proposing an excess profits tax to compensate for the price increases. The amendment was defeated by a 23-68 vote on April 9, 1975. But the Senate approved a modified proposal from Senator J. Bennett Johnston (D.-La.) that provided higher prices for oil produced from secondary and tertiary recovery techniques.

The oil pricing provisions of the bill proved a point of controversy between House and Senate, and a new oil pricing strategy was devised by conferees to give the Administration latitude to develop a pricing mechanism to "optimize production from domestic properties." In doing so, the weighted average price of a barrel was not to exceed $7.66/bbl. The legislation provided that controls could be lifted after May 1979 at the sole discretion of the President, without a direct Congressional veto. Prior to that, any such initiatives remained subject to Congressional veto. (In 1976, controls were lifted on residual and distillate fuels.)

The oil pricing provisions of the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871), signed into law in December 1975, were not universally supported, even by the Committee. Some members of the Committee thought that the continuation of controls would distort the marketplace and add to a crushing bureaucracy.

The following year, the Senate approved floor amendments to the FEA extension which provided for decontrol of oil from stipper wells, and for additional oil produced from existing wells with secondary and tertiary recovery techniques. The conferees accepted these Senate initiatives, though modified the latter to restrict it to tertiary recovery. These provisions became law in August 1976 with the Energy Conservation and Production Act (P.L. 94-385, 90 Stat. 1125).

During the intervening years, some sense had grown that price and allocation controls had exacerbated problems with the allocation of fuel, creating shortages where none had existed and artificial surpluses elsewhere. On the other hand, some believed that controls had been effective in blunting an upward spiral in prices and that decontrol would, in the short term, enrich the petroleum industry at the expense of consumers.

In early 1979, the Administration reviewed the possibilities that would open to the President on June 1 when the President was authorized to lift price controls in the absence of a potential congressional veto. In mid-February, Secretary of the Treasury W. Michael Blumenthal emphasized that the price of oil had to go up, and that the Department would be making recommendations to the President after study of the alternatives.

Congress also had a number of policy options, depending on the President's action: (1) to allow the President's decision to stand; (2) to extend mandatory price controls to forestall any decontrol action and to shelter consumers from sharp increases in petroleum prices; (3) to impose a tax on petroleum in the form of a "crude oil equalizaiton tax," a severance tax or a corporate windfall profits tax, or (4) to decontrol crude and/or gasoline on their own initiative.

The President's Initiative: Phased Decontrol

President Carter, in his energy speech of April 5, 1979, announced his decision to begin a phase-out of oil price controls beginning on June 1, 1979. The purpose of phased decontrol was to minimize the economic shock from suddenly having significant quantities of crude rise sharply in price. The President characterized price decontrol as "painful" but "necessary." "I'll give it to you straight," he said. "Each one of us will have to use less oil and pay more for it." The decision to decontrol was painful, in part, because price controls had coupled energy policy with social welfare policy, protecting lower-income families from paying market prices for energy products. The decision to decontrol was made on the basis of national security—to reduce dependence on foreign petroleum through price-induced conservation—and to utilize the market to encourage domestic production. The economic impact of decontrol would be softened by gradually phasing out controls. More importantly, President Carter coupled decontrol with proposal for a windfall profits tax, designed to capture some of the incremental, unearned income accruing to the oil industry as a consequence of decontrolling petroleum prices.

President Carter's schedule was intended to phase out controls completely by September 30, 1981 when existing control authorities were scheduled to expire. The schedule favored categories of oil which held the most promise for short-term increases in production. Price increases for upper and lower tier oil were not scheduled until early 1980, allowing time for enactment of a windfall profits tax.

In brief, the phased decontrol plan provided that:

—As of June 1, 1979, newly discovered oil would receive the world price.

—As of June 1, 1979, 80 percent of all production from marginal wells could be sold at the upper tier price. Marginal wells were defined by the depth of the well and daily production.

—The remaining 20 percent of production from marginal wells would be released to the upper tier price on January 1, 1980.

—Incremental new production from wells employing specified enhanced recovery techniques could be sold at the world price beginning June 1, 1979. Commencing January 1, 1980, producers investing in enhanced recovery projects could release specified volumes of lower tier oil to be sold at upper tier price.

—Beginning January 1, 1980, the price for upper tier oil would increase in equal monthly increments until it reached the world price on October 1, 1981.

—Between June 1, 1979 and January 1, 1980, the volume of lower tier oil would decline at a rate of 1.5 percent per month, increasing to 2 percent as of Jan. 1, 1980. The affected lower tier oil would become upper tier oil eligible to be sold at the prevailing upper tier price.

Bills and resolutions introduced both before and after the President's address fell into three broad categories: (1) legislation to extend mandatory price controls for some specified period; (2) bills to eliminate controls altogether, and (3) technical amendments which would affect the volume or classifications of decontrolled oil, some of which were coupled with windfall profits tax provisions.

In the Senate, Senator Henry Jackson and thirteen others introduced S. 936, which would have retained controls until 1982. The fact sheet accompanying the President's address estimated a potential savings between 950,000 and 1.1 million barrels daily in 1985, a figure which Senator Jackson declared inadequate to justify what he estimated would be a tremendous inflationary impact of decontrol. On April 18, Senator Jackson released a study prepared by the Congressional Budget Office, which estimated oil import savings between 650,000 and 850,000 in 1985. However, in June, Senate Majority Leader Robert C. Byrd announced his support for the President's plan, making it highly unlikely that the President's plan could be overturned in the Senate.

There was more explosive debate over controls in the House where for a brief time an amendment to end gasoline decontrol stood approved. But ultimately, the President Carter's proposal for phased decontrol was not formally challenged by action of either House. The votes and debates reflected an emerging consensus that the course of phased decontrol appeared to be in the best short-term and longer term interests of the Nation. This apparent consensus was bolstered by the relative calm that had begun to characterize the oil markets by late 1979 and throughout 1980. When demand and supply are in balance, oil price controls are not perceived as terribly harmful—and while such a market provided an ideal occasion for the lifting of controls, it also neutralized any sense of urgency to do so. In the end, the 96th Congress seemed content to await the expiration of controls as negotiated by the Adminsitration and as established by the 94th Congress in its enactment of the Energy Policy and Conservation Act.

The End of the Matter

Within days of its accession to power, the Reagan Administration, meeting its frequent campaign promise to reduce Federal energy regulation, exempted gasoline and crude oil from the remaining price and allocation controls effective January 28, 1981. The decontrol action was an early bellweather of the Administration's economic and political philosophy: oil pricing policy, the Administration reasoned, should serve economic goals instead of subordinating economic objectives to energy policy, or masking social welfare and defense policies as energy policies.

The decision to decontrol oil symbolized the Administration's fundamental premise that energy was no longer a discrete problem, but a policy issue to be treated as an overall economic recovery program. "The challenge ahead," the Administration declared in its National Energy Plan (NEP–III) was "to provide a healthy economy and policy environment that enables . . . . rational energy production and consumption decisions . . . ." Displacing imported oil was an important objective, but "achieving a low level of U.S. oil imports *at any cost* [was] not a major criterion for the Nation's energy security and economic health" [emphasis in original].

This position was shared by a majority of the Committee and there was no concerted move to reimpose controls.

NATURAL GAS REGULATION

When it was formed in the committee reorganization that became effective at the start of the 95th Congress, the Senate Energy and Natural Resources Committee took over jurisdiction for natural gas matters from the former Senate Commerce Committee. It inherited a contentious debate over price controls on the wellhead price of gas sold in interstate commerce. And almost immediately it was confronted with a legislative initiative from the Carter Administration.

The Carter energy legislation making up the National Energy Plan comprised a package of five bills, four of which were referred to the newly reorganized Energy Committee. One bill centered on natural gas price regulation—historically a topic so hotly debated that compromise legislation had been impossible to achieve. A second piece of the Carter package—again within the jurisdiction of the Committee—concerned the use of natural gas and oil as industrial and power plant fuels. On May 3d and 19th, 1977, the Committee held hearings on the Plan as a whole. The first hearing—Economic Impacts of President Carter's Energy Program—reviewed the overall rationale, objectives and economic impact of the Administration's energy plan. The second hearing—Impact of the National Energy Plan, held on May 19, 1977—essentially presented the Congressional Budget Office's (CBO) evaluation of the Energy Program effects.

To address the problem of rising costs in electric power, the Congress adopted as part of the National Energy Plan the Public Utility Regulatory Policies Act which provided for rate design standards to ensure that retail rates charged by utilities should be structured in a way that would encourage conservation of energy, efficient use of facilities and resources, and equitable rates to electric consumers.

This legislation also established retail policies for natural gas activities, cogeneration, wholesale provisions, aid to States and consumer representation, small hydroelectric facilities projects, and other significant miscellaneous provisions that were an important part of natural gas regulation.

Natural Gas Policy Act

The Committee began consideration of the Administration proposal (S. 2104) which would have essentially continued regulation of most natural gas. It seemed clear from the outset that this would run headlong in committee debate into a counter proposal by Senators James B. Pearson (R., KS) and Lloyd Bentsen (D., TX). The counter proposal—which would have deregulated most natural gas over a two-year phase-out period—had been under discussion in the Senate for several years prior to the Carter initiative. It seemed clear that in the Senate as a whole, sentiment lay in favor of deregulating gas prices. But the deregulation-regulation balance seemed much closer in Committee. Extended debate resulted.

When S. 2104 finally came to a vote in September 1977, the Committee was deadlocked on a 9 to 9 vote. The Pearson-Bentsen substitute was then voted on and the result was the same—a 9 to 9 stalemate. The Committee then agreed to report (S. Rept. 95-436) the President's proposal as originally referred to the Committee, but without recommendation. The deadlock that existed in Committee was broken on the Senate floor on October 4, when the Pearson-Bentsen substitute was passed in place of the reported language by a 50 to 46 vote.

In conference. members of the Committee played an important role in the resolution of the well-head price control issue, one that took nearly a year to resolve. The Conference report was issued on August 18, 1978, and printed as the Conference Report on H.R. 5289. The Senate first refused to recommit the bill, and then voted affirmatively on the compromise, 57 to 42 on September 27, 1978. The President signed the bill a month later, and it became the Natural Gas Policy Act of 1978 (P.L. 95–621, 92 Stat. 3350).

Fuel Use Act

With regard to proposals to lessen industrial oil and natural gas consumption, the Committee held extensive hearings on three bills on March 21 and 29, 1977. Basically, all sought to amend the Energy Supply and Environmental Coordination Act of 1974 (ESECA) to require, under Federal Energy Administration controls, electric power plants and other major fuel burning installations to use coal rather than natural gas as their primary fuel.

The bill ultimately reported from the Energy Committee would have required all new—and to the extent practicable, existing—fossil fuel-fired powerplants and major fuel burning installations to utilize other than natural gas or petroleum as their primary energy source in compliance with applicable environmental requirements. It also provided for loan guarantees and low-interest loans for air pollution control equipment needed by existing facilities that convert to coal.

This bill went to conference with a House version having essentially the same thrust. The conference reached agreement on July 14, 1978, and the bill was rushed to the Senate floor. The vote was delayed until July 18 by six opposing senators, but the Powerplant and Industrial Fuel Use Act (FUA, P.L. 95-620, 92 Stat. 3289) passed by a 92 to 6 vote.

Important parts of FUA were to be reviewed and subsequently repealed. On April 23 and 25, 1980, the Subcommittee on Energy Resolution held hearings to consider S. 2470, an Administration bill to amend FUA to require specific powerplants to convert to coal from gas and oil. Further hearings on April 23 and 24, 1981—this time on repealing Sec. 301 of FUA, containing DOE authority to order powerplant conversions—were conducted. These paved the way for the repeal of the "off-gas" provisions, which would have prohibited the burning of gas after 1989 in large facilities that had been operational as of April 20, 1977. Bolstered by the argument that more gas seemed available and that high prices would prevent its wasteful consumption, repeal language was added to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35, 95 Stat. 357).

Gas Policy in the 1980's

The matter of natural gas price controls began to re-emerge in 1982, as the Committee became concerned about the way market and regulatory forces were interacting under NGPA. Hearings on Natural Gas Policy and Regulatory Issues were held on March 22 and 23, 1982. Discussion focused on the course of partial well-head price deregulation, and the behavior of interstate pipelines in the post-enactment NGPA market. Here, the Committee early on identified pipeline related problems as major factors troubling gas markets. This served as an initial guide to future legislative and to regulatory actions taken on pipeline issues.

In the 98th Congress, the Administration submitted a bill (S. 615) which was essentially a natural gas deregulation measure, but included language to remove the inhibitions against natural gas use in the Fuel Use Act. Extensive hearings were held on March 9-12, 22, 28 and 29, 1983. On April 19, 1983 the Committee marked up S. 615. The most controversial portion of this bill was the provision involving the decontrol of old gas. On April 21, an attempt to strip the bill of decontrol language failed by a 2 vote margin in committee.

Another issue on the table was a provision requiring that pipelines contract to carry gas owned by others. The contract carriage language was in the original proposal introduced as S. 615. A second bill, S. 1017 introduced be Senator Bill Bradley (D., NJ), placed a stronger requirement on pipelines that they transport gas for unrelated parties. This bill touched off a month-long discussion, leading to significant modifications in it. The Committee ultimately adopted the Bradley contract carriage proposal by a 17 to 1 vote. While never enacted into law, this served as a model for far-reaching changes initiated by regulation at FERC.

Debate then returned to decontrol. An attempt at compromise was introduced by Senator Wendell Ford (D., KY), an opponent of decontrol. This failed on a 10 to 10 tie vote, as did another compromise proposal developed by Senator Ford.

By mid-June, after working on S. 615 for 3 months, the Committee set aside this bill and began working on a mark-up draft developed by the Committee's staff. After still further revisions, the Committee was ready to report a new bill, S. 1715, which would have decontrolled gas over 44 months. In order to line up the necessary majority vote, the Committee was forced to report the bill without recommendation. This illustrated just how divisive the natural gas issue was, not just in Committee but in the Senate as a whole.

When the bill finally got to the floor in November, 1983, it was met by competition from a gas price roll-back substitute (S. 996) introduced by Senator Nancy Kassebaum (R., KS). Debate on the floor continued for over two weeks. In the end both S. 1715 and S. 996 were defeated by similar votes, 28 to 67 and 26 to 71 respectively.

Chairman McClure met for three days with representatives of both sides of the decontrol issue. While they had gotten close to a compromise, the Senate was pressing to adjourn, and a final version of a bill could not be successfully crafted.

Much of thinking about natural gas regulation that evolved during consideration of S. 615 and related measures and amendments in the Committee actually was implemented by regulation issued by FERC. The one issue that still remained unresolved and really required legislative attention was the FUA inhibitions on natural gas (and oil) use in large industrial and powerplant applications. FUA prohibited the use of these fuels in large facilities after 1990. The Committee began to focus on this matter in May 1986, when it held hearings on repealing the off-gas provisions of FUA, as well as a number of other issues of less import; additional subcommittee hearings were held in March 1987 on S. 85, the Natural Gas Utilization Act of 1987. The bill was reported on March 31 (S. Rept. 100-30), with the provision that new oil and gas fired powerplants be convertible to alternative fuels. This bill easily passed the Senate, and was signed into law (P.L. 100-42, 101 Stat. 310).

INTERNATIONAL ENERGY AFFAIRS

On November 18, 1974 the United States entered into the International Energy Program (IEP) agreement with fifteen other nations. Currently twenty-one countries are signatories to the IEP. It promotes cooperation among major industrial countries in reducing dependence on imported oil and improving preparedness to respond to international oil supply disruptions.

The IEP established the International Energy Agency (IEA), based in Paris, as an autonomous institution within the Organization for Economic Cooperation and Development (OCED), responsible for coordinating the information gathering and emergency oil sharing systems created by the IEP.

Title II of the Energy Policy and Conservation Act was enacted in 1975 to provide the basic statutory authority for the United States to meet its IEP obligations. In the event of an oil supply disruption it provides for the coordinated drawdown of emergency oil stocks by member nations. It also allows the President to prescribe rules for an international oil allocation if an oil crisis occurs and voluntary emergency sharing fails to achieve its goals under the IEP. In addition, Title II provides for an energy information system.

In order to facilitate voluntary participation by international oil companies, Title II (Sec. 252) contains an antitrust exemption for U.S. oil companies and provides a limited antitrust defense and a breach of contract defense for actions taken to develop or carry out voluntary agreements and plans of action under the IEP. The major issue of the legislation is the duration of the extension of the antitrust defense.

On May 12, 1988, the Committee on Energy and Natural Resources held a hearing on S. 2203, a bill to extend the provisions of Title II for 5 years, until June 30, 1993, which was reported with a provision for an extension of 2 years only. According to the Committee report, the shortened extension would allow a new administration to review the nation's energy emergency plans and U.S. participation in the IEA. Congress subsequently enacted Public Law 100-373 extending the expiration date of Title II to June 30, 1990. Sec. 2 of the law provided for a study and report on energy policy cooperation between the United States and other western hemisphere countries.

STRATEGIC PETROLEUM RESERVE

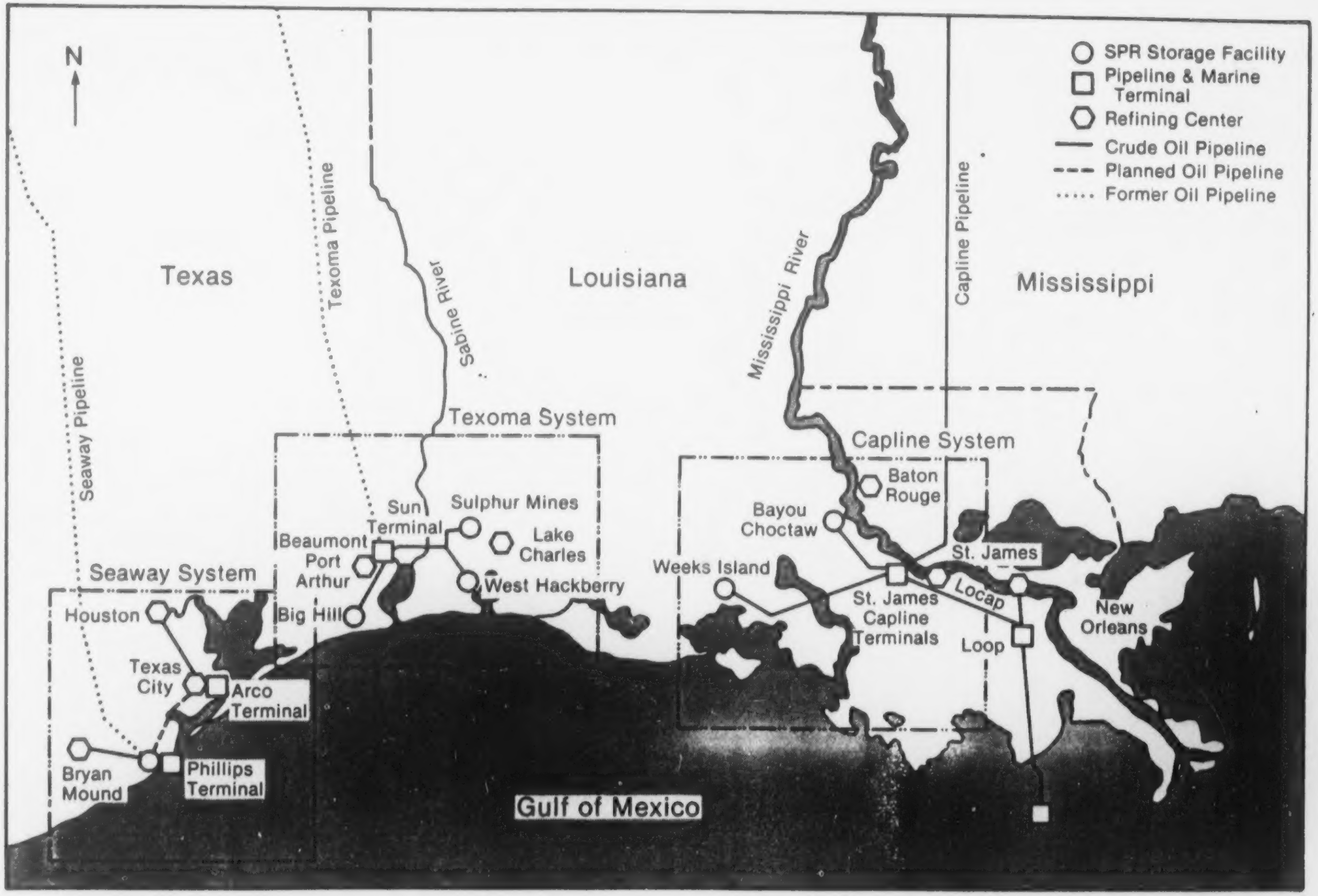
In 1971, the Senate had established a National Fuels and Energy Policy Study at the urging of Senator Jackson, Chairman of the Senate Committee on Interior and Insular Affairs, and Senator Jennings Randolph (D., WV). During the early 1970s, members of the Committee were becoming increasingly interested in energy policy.

The Arab oil embargo in 1973-74 prompted a broad legislative response, some of these initiatives addressed to the short-term problems caused by the embargo. Other policies embraced by the Committee were targeted at reducing the Nation's energy dependence in the future, or at least diminishiung vulnerability to disruptions in supply. Part of this effort was the Strategic Petroleum Reserve (SPR), authorized in late 1975 as part of the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

It was generally believed that the mere existence of a large, operational reserve of crude oil would deter future oil cutoffs and would discourage the use of oil as a weapon. In the event of an interruption, introduction into the market of oil from the Reserve would help calm markets, mitigate sharp price spikes, and reduce the economic dislocation which had accompanied the 1973 disruption. In so doing, the Reserve would also buy time—time for the crisis to sort itself out, or for diplomacy to seek a resolution before pressures built for more drastic, inteventionist tactics. The SPR was to contain enough crude oil to replace imports for 90 days, with a goal initially of 500 million barrels in storage. The Congress subsequently approved the implementation of a 750 million barrel reserve but deferred the decision on the timing and method for the final 250 million barrel increment.

After its inception, the program fell increasingly behind schedule. Contrary to current perception, the Carter administration was deeply concerned by looming deficits in the Federal accounts and was also reluctant to ignore a pledge, given by the Secretary of Energy to the government of Saudi Arabia, that the United States would not enter the world oil market to purchase oil for the SPR in the aftermath of the Iranian revolution. For almost two years, foreign policy and budget imperatives, as perceived by the President, dictated that no oil be purchased for the SPR.

By the end of 1978, the SPR was supposed to contain 250 million barrels, but contained only 69 million barrels. When the Iranian revolution cut supplies in the spring of 1979, purchases were suspended to reduce the upward pressure on world oil prices. Filling of the Reserve was resumed in September 1980 following enactment of the Energy Security Act (P.L. 96-294, 94 Stat. 611), which established a minimum fill rate of 100,000 barrels per day (b/d). The crude oil is stored in underground facilities in salt domes along the Gulf Coast of Texas and Louisiana.


N
○ SPR Storage Facility
□ Pipeline & Marine Terminal
⬡ Refining Center
— Crude Oil Pipeline
- - - Planned Oil Pipeline
..... Former Oil Pipeline
Texas
Louisiana
Mississippi
Seaway Pipeline
Texoma Pipeline
Sabine River
Mississippi River
Capline Pipeline
Texoma System
Capline System
Seaway System
Houston
Texas City
Arco Terminal
Bryan Mound
Phillips Terminal
Beaumont
Port Arthur
Big Hill
Sun Terminal
Sulphur Mines
Lake Charles
West Hackberry
Weeks Island
Bayou Choctaw
Baton Rouge
St. James
Locap
St. James Capline Terminals
Loop
New Orleans
Gulf of Mexico

SPR Amendments in the Energy Security Act of 1980

The Energy Security Act had modest beginnings as a comparatively short piece of legislation intended to amend the Defense Production Act and containing no language with respect to the Strategic Petroleum Reserve. But amendments affecting the Strategic Petroleum Reserve were one of the many additions to the bill as it grew in complexity and scope during Senate debate. During consideration in the Senate of S. 932, reported from the Senate Energy Committee, Senator Robert Dole (R., KS), with the support of Senator Bill Bradley (D., NJ), introduced an amendment to resume fill of the Reserve at 100,000 b/d. The proposed amendment would have also repealed paragraphs (1) and (4) of section 160(b) of EPCA, which justified the suspension of purchases for the SPR because maintaining the fill rate would "have an adverse impact on supply levels and markets prices," and be inconsistent with the statutory requirements to minimize the cost of the SPR.

The amendment also exempted purchases for the SPR from import quotas imposed under the Trade Expansion Act (TEA), but this provision was dropped from the amendment during debate. The House had previously taken exception to a Senate amendment to the TEA, claiming the constitutional right to initiate action on the matter since that Act dealt with revenues and fees.

Senator Dole argued that money had been appropriated for SPR purchases and storage facilities were available, and disagreed that U.S. security could be equated to high prices on spot markets. "Those who say that the spot market price of $40 a barrel is too much to pay for SPR oil are telling us that our national security is not worth the price."

The amendment was withdrawn for modification after Senator Bennett Johnston, expressing qualified support for it, voiced concern that it required fill of the Reserve without allowing for available storage capacity and that there might be instances when it would be advisable for the President to modify the fill rate because of world markets and domestic shortages. The modified amendment, brought up again later that day, required a minimum fill of 100,000 b/d—paragraphs (1) and (4) of section 160 of EPCA "notwithstanding," and subject to adequate storage capacity. The amendment authorized DOE to contract for construction of additional capacity as needed.

Senator Johnston still expressed reservations, noting that the modified amendment had the effect of nullifying the flexibility afforded the President by section 160 of EPCA, even if the amendment did not constitute outright repeal of those provisions. The principals agreed to vote on a motion to table, which was defeated 36-53. The amendment was subsequently agreed to, and went to conference as part of S. 932.

Conference Action.—The provisions pertaining to the Strategic Petroleum Reserve swelled so in conference that S. 932, as reported from conference, included a separate Title VIII addressing the SPR. The conferees retained the thrust to the Senate amendment, mandating an average fill of 100,000 b/d "without regard to the objections of section 106(b)," though it would be expected that the Secretary of Energy would "abide by these objectives to the extent they are compatible with the mandated fill." In other words, the conferees seemed to feel that the guidelines (to minimize SPR cost, and to reduce the impact of SPR purchases on domestic petroleum supplies and prices) ought not be used as a reason to fill the SPR at a rate less than 100,000 b/d on average. The requirement would be effective with the commencement of Fiscal Year 1981, and the conferees noted that the rate was intended as a minimum fill and was not to be considered the "appropriate rate of injection."

The conference language also linked fill of the SPR with sales of crude from the Elk Hills Reserve. Noting that production from Elk Hills was averaging 160,000 b/d, the conferees required that Elk Hills production would not be disposed of other than to fill the SPR if the SPR fill fell below 100,000 b/d.[4] This restriction would terminate when the Reserve reached 500 million barrels.

The conferees provided that the President can request exemption from the fill requirement if compliance would impair the Nation's response to a shortage or hamper the Nation's ability to meet international obligations during a shortfall. The President would have to transmit such findings under the procedures specified in section 552 of EPCA. The fill requirement would be suspended should the SPR be drawn down in an emergency, and the period of the suspension would not be averaged into any calculation to determine compliance with the fill requirement.

It was intended that the 100,000 b/d fill requirements was to be a minimum rate and not a value judgment on an appropriate fill rate. The importance with which the 96th Congress regarded the SPR was underscored on November 13, 1980, when the Senate debated an amendment to the DOE Fiscal Year 1981 appropriations bill, to provide that the President accelerate the fill rate to 300,000 b/d. The amendment, introduced by Senator Bradley, was intended to reconcile the required fill rate with the rate of fill that could be financed by the appropriations itself.

Some Senators expressed opposition to the amendment, noting that market conditions could diminish the purchasing power of the appropriated funds, making compliance more expensive than budgeted. There was further objection that it was inappropriate to amend the Energy Security Act in an appropriations bill, and that the amendment did not provide the Administration with much flexibility in making acquisitions for the reserve because the amendment lacked language specifying the time period over which compliance would be measured, and therefore seemed to preclude allowing acquisitions to temporarily fall below 300,000 b/d even when it might be prudent to do so for the short term.

A few days later, Senator Bradley introduced a modified amendment to require an average annual rate of fill of 300,000 b/d, or at a rate that would fully utilize appropriated funds. Additional language established that the amendment was in addition to, and would not affect the operation of, Title VIII provisions in the Energy Security Act. What this meant was that, were the amendment approved, the required fill rate would be 300,000 b/d, but the flexibility afforded to the administrators of the program by section

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[4] There were a few exceptions, including production for national defense.

160 of EPCA would apply. However, the amendment preserved the provisions in Title VIII establishing a 100,000 b/d minimum fill rate, section 160 notwithstanding. In sum, the Administration could, because of cost or market factors, adjust purchases below 300,000 b/d (at an average annualized rate), but could not allow the fill rate to fall below 100,000 b/d without the approval of Congress.

The specification that the 300,000 b/d rate was an annualized daily rate and the retention otherwise of the previously enacted Title VIII satisfied reservations expressed a few days before, and the amendment passed without objection. The provision was retained in the final DOE Fiscal Year 1981 appropriations law (P.L. 96-514, 94 Stat. 2957).

Coping With the Federal Deficit: Alternative Means of Financing the SPR Program

During this period, the major threat to the SPR program came from the Senate Budget Committee. Charged with dramatically reducing the size of the Federal deficit, the Committee targeted the large SPR component of the President's proposed Federal energy budget as a prime candidate for cuts. The Committee suggested that Congress find another way to pay for the SPR. The first candidate nominated by the Budget Committee was the oil industry. It was suggested that each oil company be required to supply oil to the Reserve in proportion to its imports. In return, each company would be "fully" reimbursed for the cost of the oil delivered by a Federal payment in eleven annual installments, each of which would be equal to one-tenth of the cost of the oil supplied. The interest returned from these payments worked out to 0.87 percent per year. The oil companies declined.

Next, it was suggested that the sale of "oil bonds" from a special issue of Federal debt instruments might be used to entice speculators in particular, and the public generally, to provide capital to SPR oil purchases. Testimony presented by representatives of the financial community to the Senate Committee on Energy and Natural Resources strongly suggested that any such bonds would have to pay a substantial premium to attract capital. The escalating softness of the world oil market during 1981 did little to improve the prospects for large sales of bonds with values tied to future oil prices. It was soon evident that the lead time which would be unavoidable in establishing the new funding mechanism would be substantial; the uncertainty of its acceptance by investors was great; and the costs of such a program to the Federal government would really be much larger than the cost of simply paying for the Reserve through appropriations backed up by ordinary Treasury bills. The oil bond scheme died an early death.

In the end, the Energy and Natural Resources Committee reported legislation which simply declared expenditures for SPR oil purchases to be off-budget. This provision, incorporated into the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-38) established an off-budget account funded from general Treasury revenues to finance oil acquisition, and an on-budget account for administration and physical expansion of the Reserve. Purchases were to be funded by appropriations as before, but the sums would not enter into the formal algebra of the Federal budget process. Off-budget status for the SPR meant that the Congressional funding committees could support a larger fill rate for the SPR without becoming entangled in the procedural traps then in place to enforce the Congressional budget process.

As the Administration became more preoccupied with mounting deficits, the SPR budget became a target of its growing fiscal conservatism. The first installment of this drama occurred in the Administration's Fiscal Year 1983 budget request which sharply reduced the amount to be spent for oil acquisition, and proposed a delay in construction of the final increment of storage. The request prompted the Committee and the Senate to act to protect the SPR program, which was emerging as the nation's principal bulwark against any future disruption. The result were provisions governing SPR fill included in the Energy Emergency Preparedness Act of 1982 (P.L. 97-229).

The final bill established a minimum fill rate of 300,000 b/d, subject to a finding by the President that maintaining that rate of fill was "not in the national interest." In the event of such a finding, which must be made each fiscal year, the minimum fill rate would be 220,000 b/d. In addition, if appropriated funds in a given fiscal year supported a rate higher than 220,000 b/d when that rate is in effect, then the rate of fill must be as high as appropriated funds would permit. The bill also established clear authority to permit DOE to lease interim storage capacity so that the minimum fill rate could be maintained while adequate permanent storage capacity is being developed.

The final version included a Committee provision requiring the Administration to submit a new SPR drawdown plan. The Administration has not articulated how it would utilize the SPR in an emergency—whether SPR oil would be held to be used only in the severest of shortages or utilized to stem the uncertainty that accompanied the relatively modest shortfalls of 1973-74 and 1979. Establishing in advance the conditions and mechanisms for distribution of SPR crude, the Administration had argued, would discourage preparedness efforts within the private sector and limit the flexibility of the Administration to fashion specific responses to specific shortages. The requirements of the legislation were sensitive to the Administration's position without wholly compromising Congressional prereogatives. The legislation limited the scope of the drawdown plan to describing the drawdown strategies that the Administration would consider during a shortage, in the absence of a system of price and allocation controls. The bill did not require that the Administration specify precisely the circumstances under which the Reserve would be tapped because if it had, the Administration would have continued to furiously resist.

The Administration's revised drawdown plan, submitted to Congress in December 1982, settled few worries about how, and under what conditions the Administration would use the Reserve. The Energy Committee and its chairman at that time, played an active role in defining the different perceptions of Congress and the Administration, and ultimately prompting a reversal in the Administration's policy.

"Consistent with its market-oriented approach," the Administration reported to Congress—

> . . . the Administration intends to use the SPR during an energy crisis in a manner which simulates the operation of the marketplace as closely as possible, and which interferes with the marketplace as little as possible.

To that end, the revised plan provided for competitive sales of SPR oil. The plan also provided for "directed sales," at the discretion of the Secretary, of 10 percent of the volume sold in any one month. This oil would be used to remedy regional imbalances, hardship, and to compensate oil companies serving U.S. markets for cargoes of oil diverted to the International Energy Agency (IEA). However, the directed sales volumes would be sold at the average price of volumes sold during the current or most recent auctions, suggesting that need—absent the ability to pay for supply—was no guarantor of assistance.

The Administration also continued to resist pressures to describe the circumstances under which it might consider drawing down the Reserve, ostensibly "because of the wide range of unpredictable conditions" which might characterize a disruption. But the Administration also did not wish to blunt the private sector's own stockpiling and anticipatory planning by allowing an assumption that SPR oil would be introduced into the marketplace under even the most vaguely designated parameters. As the Administration noted in response to an inquiry for the record in hearings on SPR drawdown policy before the Committee on March 7, 1983, "There certainly should be no presumption that the market will not distribute available supplies effectively."

The debate over SPR issues during the fall of 1983 revolved around the issues of fill rate, facilities development, and how the SPR would be deployed in an emergency. Recognizing that the Administration's attempts to slow development of storage facilities would eventually constrain the fill rate, Chairman McClure sought to hammer out a compromise that accepted a lower fill rate than provided for by EEPA in return for a commitment from the Administration to continue facilities development. A majority in the Senate unfortunately did not take this longer-term view; Congress got a higher fill rate but the Administration was essentially relieved for yet another year from its commitment to a 750-million barrel Reserve.

On the related front, criticism continued to mount from the Committee and elsewhere that the Administration's stubborness to commit to early use of the SPR during a disruption was dreadfully mistaken. In January 1984, the Administration reversed its position and then-Secretary of Energy Hodel announced that the SPR would be used in a disruption as much to moderate prices as to assure security of supply to domestic markets. Supply and price were, from the Committee perspective, inextricably related all along, but the Administration, because of its over-zealous adherence to "free markets," was reluctant to acknowledge the correlation. Having now resolved the issue of early reliance upon the SPR, the Committee's role became focused upon preserving the program from budget deferrals.

The Moratorium Proposals

The Administration proposed moratoria on fill and further development during Fiscal Year 1986 and Fiscal Year 1987, but in both instances Congress overturned deferrals of unspent funds and insisted that development and fill of the SPR continue. The Administration's rationale for a moratorium rested on the premise that a 500-million barrel Reserve would be adequate to provide the measure of security that it was thought, only a few years ago, would have required a Reserve of 750 million barrels. The original intention of the SPR, after all, was to hold the equivalent of a 90-day supply of U.S. crude and product imports, an intention which was presently satisfied.

The Administration also believed that a disruption during the remainder of this decade, greater in magnitude than those experienced during the 1970s, was unlikely, and that should perceptions change about the degree of threat, the SPR program could be resumed. For the foreseeable future, it was argued, the SPR would adequately offset the share of disrupted supply that the United States would have to absorb under most imaginable scenarios. Some of the Persian Gulf producers were initiating construction of new pipelines or expansion of existing ones to provide them other outlets for their oil. This promised to reduce the ability of any one "renegade" nation to disrupt unilaterally the flow of oil from these nations, short of a coordinated political resolve among these nations to embargo oil to the West.

Not unmindful of these considerations, and recognizing the need to control Federal spending, the 99th Congress agreed to some reduction in the fill rates for the Reserve, but would not accept a total moratorium. Congress insisted that fill continue during Fiscal Year 1987. The Administration responded by trying for the second consecutive fiscal year to defer funds for the program, but the deferral was overturned.

The decline in crude prices in 1986 further eroded the Administration's position. Many argued that low prices presented an ideal time to fill the Reserve, especially against the likelihood that lower prices, if sustained for the balance of the decade, would probably lead to an increase in domestic demand, and therefore an increase in oil imports. A 500-million barrel SPR, adequate today, might not be so by the 1990s.

In mid-June 1986, Secretary of Energy Herrington acquiesced to the weight of opinion and indicated that he was urging the White House to reconsider the moratorium proposal, and on August 6, 1986, the President expressed support for continued fill of the Reserve, adding that the Secretary of Energy could exceed the congressionally mandated minimum fill rate of 35,000 b/d if prices made such a course of action "economically attractive."

The budget reconciliation (H.R. 5300, P.L. 99-509) passed at the close of the 99th Congress settled on a fill rate of 75,000 b/d and provided that if the fill rate dropped below that level, DOE would have to suspend sale of oil from the Naval Petroleum Reserve.

SPR in the 100th Congress

Recognizing that it would be fruitless to propose a moratorium once again, the Administration proposed instead to halve the fill rate to 35,000 b/d for Fiscal Year 1988. In May 1987, the President did go on record in support of a 100,000 b/d fill rate if compensating reductions in spending were made elsewhere in the budget. Sale of the Naval Petroleum Reserve was also advanced as a means of finding revenues to support a higher fill rate.

The Committee favored maintaining the fill rate at 75,000 b/d, but in the interests of achieving some spending reductions, conferees on the appropriations reduced the rate to 50,000 b/d. This rate was also adopted for Fiscal Year 1989.

In August of 1988, the Committee held oversight hearings to review the current status of the SPR program and to review proposals for accelerating fill. Amidst flickering and inconsistent Administration support for the SPR, the Committee continues to take a prominent role to assure that the SPR can effectively replenish lost supplies and moderate price increases in the event of a disruption.

ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT AND ENERGY CONSERVATION PROGRAMS

One development that grew from the National Fuels and Energy Policy Study, directed by the Senate Interior Committee under S. Res. 45 of the 92d Congress, was a new perspective from which to view alternative energy resources. Fossil fuels contributed the overwhelming share of energy to the Nation, and concerns over this dependency were growing. However, most energy research and development was concentrated in the Atomic Energy Commission, where the primary interest was on nuclear fission and fusion. Some work was being supported by the National Science Foundation on solar and geothermal energy, and the Department of the Interior had a program on coal gasification and liquefaction, but except for fission, these efforts were scattered and their aims long-term.

With the focus supplied by the S. Res. 45 studies, the Congress began to revise its view of energy policy.

Initiatives of the 92d Congress

Even before the embargo, the consensus perception of the energy situation in the United States was beginning to be characterized by such words as "crisis," "dilemma," "crunch" and similar terms connoting rapid change with adverse effects and the need for major policy correction and rationalization.

Relatively short transition times from abundant domestic fuels to fuel shortages, from cheap energy to increasing prices, from relatively little concern over fuel imports to major concerns, and increasing recognition and demands related to air, water, and land environment, coupled with increasing energy demands, all resulted in a sharply increasing focus on Government policy in energy and related areas.

Energy Research and Development Proposals

The combination of energy shortages and the environmental impact of both fossil and nuclear fuel cycles served to sharpen the focus on the need for increased research and development in all aspects of energy technology. This need was reflected in a number of separate bills referred to the Committee during the 92d Congress.

One would have established a Federal Power Research and Development Board composed of five members appointed by the President with the advice and consent of the Senate. It also provided for the collection of fees based on the sale and/or consumption of electricity. These fees would be deposited in a Federal Power Research and Development Trust Fund which would be in the U.S. Treasury and would be available through the appropriation process only to the Board. The Board would be authorized to conduct directly or by grant, contract or other arrangement a program of R. & D. in improved methods for production, transmission, distribution and use of electricity. Other operating and reporting provisions were also included.

Other bills would have authorized the Secretary of the Interior to establish a 5-year geothermal research program including a U.S. Geothermal Research Institute in Hawaii. Another title of these bills would set up a Geothermal Resource Development Loan Program.

Other bills which would also provide for programs in the development and demonstration phases of fuel conversion processes relate to the establishment of a Coal Gasification Development Corporation which would have selected the two most technically and economically feasible methods for manufacturing substitute natural gas from coal and constructed two demonstration plants and subsequently two commercial-size facilities. The distribution and sale of gas and provisions for proceeds were also included. Similarly, one of the bills related to the establishment of a Synthetic Hydrocarbon Fuel Corporation which would also have developed coal conversion to oil processes. Another bill, previously noted, would have established a New Energy Source Corporation, and had analogous provisions related to oil shale development, extraction of fuels from tar sands and solar energy development.

The Embargo and the 93d Congress

The legislative ferment of 1971 and 1972 came to a head in the 93d Congress, spurred by the oil embargo and the quadrupling of oil prices. A major part of the new energy legislation related to research and development, and support for energy conservation programs, with a focus on the newly created Energy Research and Development Administration (ERDA).

The Energy Research and Development Appropriations Act of 1974 (P.L. 93-322, 88 Stat. 276) appropriated more than $2.2 billion for energy research and development programs for fiscal 1975. Previously, appropriations for Federal energy R&D had been considered as part of seven separate appropriation bills. The amount appropriated was marginally greater than the amount requested by the Administration.

The law provided the following sums for various research areas:

a. $1,487,000,000 for the Atomic Energy Commission, including funds for accelerated efforts for the liquid metal fast breeder reactor, nuclear safety research, development of nuclear materials, space nuclear systems, nuclear fusion, and biomedical and environmental research.

b. $557,164,000 for the Department of the Interior, including expanded research on coal gasification and liquefaction technology.

c. $101,800,000 for the National Science Foundation, including studies on solar and geothermal energy sources, and the conservation of energy.

d. $54,000,000 for the Environmental Protection Agency to develop methods to control pollutants associated with energy extraction, transmission, conversion and use.

e. $19,000,000 for the Federal Energy Administration for the overall management of national energy policy.

f. $8,935,000 for the National Aeronautics and Space Administration for energy R&D projects utilizing capabilities developed in the space program.

g. $6,630,000 for the National Oceanic and Atmospheric Administration.

h. $6,400,000 for the Department of Transportation to accelerate the development of improved transportation systems.

This level of funding was consistent with the longer-term level of effort intended by Congress as expressed in its findings in the subsequently enacted Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577, 88 Stat. 1878):

> The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake a research, development and demonstration program in non-nuclear energy technologies with a total Federal investment which may reach or exceed $20 billion over the next decade.

Public Law 93-577 was intended to outline specific congressional policies and principles for the timely development and application of new non-nuclear energy supplies. The Act which established the Energy Research and Development Administration (ERDA, P.L. 93-458, 88 Stat. 1233) did not set forth congressional policy regarding the conduct of ERDA's programs. The development of nuclear research was to be guided by congressional policy and procedures under the Atomic Energy Act. The Non-nuclear Energy Research and Development Act was intended to bring the R&D efforts of other forms of energy into better balance with nuclear energy research.

The Act defined a number of guidelines for the administrator of ERDA to follow in developing non-nuclear energy sources. These guidelines placed heavy emphasis on developing energy resources in an environmentally acceptable way. The guidelines included:

—Encouraging the private development of energy resources;
—Exploring the widest possible number of energy options;
—Broadening the base of public ownership of energy industry and capital;

—Assuring public access to information.

The Act did not set out a specific research program so much as it indicated directions in which it wanted the R&D efforts to go. The administrator of ERDA was required to emphasize R&D on energy conservation and reuse; solar energy; geothermal energy; coal, oil, and natural gas; wind power; ocean thermal power, and hydrogen fuel.

The Act also required the administrator of ERDA to submit two annual reports to Congress, one due 90 days before the start of each fiscal year setting forth the future energy research and development program; the second due within 60 days of the close of each fiscal year detailing ERDA's activities during the year.

The Act authorizes the administrator of ERDA to use a variety of forms of Federal assistance to stimulate the development of energy sources. They could include contracts, grants, loans, Federal purchases or price supports of products from demonstration plants, incentives to inventors, and joint Federal-industry corporation. Specific Congressional approval would be required for each Government-industry corporation, and for any demonstration project costing more than $10 million or any loan of more than $5 million.

Patents for technologies developed under this Act would become the property of the Federal Government in most cases, and the technologies would be widely disseminated. Licenses to use the technologies would usually be granted on a non-exclusive basis. Contractors would receive a royalty-free license on all technologies they developed with Federal aid, but could not exclude others from their use. Exclusive rights to use a technology could be granted if after a public hearing the administrator of ERDA found that the availability of non-exclusive licenses had not resulted in substantial use of the technology or if exclusive licensing was needed to generate risk capital.

Originally, the bill (S. 1283), as approved by the Senate in December 1973, contained language endorsing the goal of energy self-sufficiency within ten years through "a commitment similar to those undertaken in the Manhattan and Apollo projects" and a research, development and demonstration program in non-nuclear fuels. Authorized to be appropriated for this goal was $20 billion over 10 years.

The conference compromise, agreed to a year later, December 17, 1974, and signed January 1, 1975, dropped the reference to self-sufficiency and to the ten-year time frame in which it was hoped to be achieved.

As explained in the conference report (H. Rept. 93-2563):

> Subsection 3(a) incorporates the introductory language of section 102 of the Senate bill with changes to reflect more recent views on energy policy. The Senate version of the measure included a statement of the policy of the Congress "to develop within ten years the option and the technological capability for the United States to become energy self-sufficient through the use of domestic energy resources by socially and environmentally acceptable means." The House version contained no comparable provision. The conference committee wished to retain the sense of urgen-

cy expressed in the Senate version without prejudging the time span of the required accelerated research, development, and demonstration effort. The committee also wished to emphasize that the objective of this effort is to open up the broadest range of energy option for use in the formulation of future energy policy choices.

The law as passed included the following statement among its findings, reflecting the conference committee intent:

> The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake a research, development, and demonstration program in non-nuclear energy technologies with a total Federal investment which may reach or exceed $20,000,000,000 over the next decade.

One energy resource that attracted much attention in the 93d Congress was solar energy. It was viewed as secure from the threat of foreign interference, and a source so vast that it could be considered to be inexhaustible.

The National Science Foundation, which had been the lead Federal agency in solar energy research, identified the following six categories: solar heating and cooling of buildings, wind energy conversion, photo-voltaic conversion, solar thermal conversion (i.e. a large heat source for steam generation), ocean thermal conversion, and bioconversion as offering suitable opportunities for beneficial research and development efforts.

Although much progress had been made in solar technology, none of the solar conversion processes had been developed for use on a large commercial scale. In fact, most of the technologies were still in the research stage. Although the basic technical facts for utilizing solar energy were known, practical application was very difficult and in many cases, costly. High costs were associated not only with the research and development stages but also in starting up industries for the mass production of low-cost commercial products.

The 93d Congress enacted legislation to accelerate the rate of development of the various solar technologies and to transfer these technologies into widescale applications. This legislation provided for research on all potential forms of solar energy utilization, as well as development through commercial demonstration of the most promising technologies.

Three solar energy bills were enacted by the 93d Congress; they were (1) Solar Energy Research, Development, and Demonstration Act of 1974 (P.L. 93-473, 88 Stat. 1431); (2) Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-409, 88 Stat. 1069); and, (3) Housing and Community Development Act of 1974 (P.L. 93-383, 88 Stat. 633).

The common purpose of each Act was to accelerate the rate of commercial utilizations of solar energy. However, each approached the problem from different viewpoints.

The purposes of the Solar Energy Research, Development and Demonstration Act of 1974 were (1) to pursue a vigorous program of research and resource assessment of solar energy as a major source of energy for our national needs, and (2) to provide for the development and demonstration of practical means to employ solar energy on a commercial scale.

To meet these objectives, the Act provided for seven program areas:

(1) A regional and national determination and assessment program of all solar energy resources including insolation, wind, sea thermal gradients and potentials for photosynthetic conversions;

(2) A research and development program for the resolution of major problems inhibiting commercial utilization of solar energy;

(3) A program to demonstrate the technical and economic feasibility of specific solar energy technologies including the production of electricity from powerplants in the 1 to 10 megawatt range, the production of synthetic fuels in commercial quantities, and the large-scale utilization of solar energy in the form of direct heat;

(4) The establishment and operations of a solar energy information bank for the purpose of collecting, reviewing and disseminating information to all solar energy technologies;

(5) The support of education programs to provide for the trained personnel necessary for the performance of the other activities of this Act;

(6) The establishment of a Solar Energy Research Institute to perform such research and development; and

(7) The participation on the international level in solar energy research projects.

All the functions and authorities vested in the Act were the responsibility of the Energy Research and Development Administration, with the exception of the education program, which was the responsibility of the National Science Foundation.

To meet the objectives of this Act, an appropriation of $75 million was authorized for Fiscal Year 1975. Annual Congressional authorization measures were to provide funding for following years.

The purpose of the Solar Heating and Cooling Demonstration Act of 1974 was to demonstrate the commercial applicability of solar heating and cooling systems for residential, commercial, and industrial buildings. In so doing, it should encourage the widespread utilization of solar energy. Specifically, the Act provided for (1) the demonstration of the practical use of solar heating technologies within a three-year period, and, (2) the demonstration of the use of combined solar heating-cooling technology within a five-year period.

To meet these goals, a two stage program was established. In the first stage, performance criteria were to be defined for solar heating and combined solar heating and cooling systems, and such systems were to be developed to the commercial level. During the second stage, the performance of the solar systems was to be demonstrated on a "substantial" number of buildings of different types and having different geographic locations. Information gained under this Act was to be available to all public and private organizations and to the public at large to promote use of solar energy for heating and cooling structures.

To implement the provisions of this Act, Congress authorized the appropriation of $5 million for the remainder of fiscal year 1975. Subsequent funding for Fiscal Years 1976 through 1979 was authorized to an aggregate total of $50 million.

Solar heating for housing was addressed in the Housing and Community Development Act of 1974, a measure not within the jurisdiction of the Committee, but a matter of concern to it. This Act allowed the Department of Housing and Urban Development (HUD) to demonstrate the economic and technical feasibility of utilizing solar energy for heating and cooling residences. (The Act did not require or direct the implementation of a solar energy program.) The Secretary of HUD was authorized to contribute and provide assistance for the planning, design, development and operation of housing utilizing solar energy. Also, HUD was authorized to use the contract, loan, or mortgage insurance authority of any Federally assisted housing program in the actual planning, development and occupancy of such housing.

The combination of the three Acts provided a broad and permissive approach to utilizing solar energy resources, ranging from research on the utilization of various forms of solar energy through to large-scale demonstrations of technical and economic feasibility of advanced concepts. Provisions were also included to promote public acceptance of solar energy systems in buildings through Federally guaranteed loans or mortgage insurance programs. However, no provisions were made to provide direct financial incentives to building owners for using such systems. Therefore, the successful introduction of solar energy technologies into general public use would require not only technical feasibility but also that the technology be economically competitive with other forms of energy.

The Energy Research and Development Administration (ERDA) became the lead Federal agency for the broad-based solar utilization program, whereas HUD was to demonstrate the feasibility of utilizing solar energy in heating and cooling buildings.

The solar energy-related legislation enacted did not authorize long-range funding. Although it was recognized that such programs would span at least several years, funds were to be appropriated on a year-to-year basis.

On September 3, 1974, President Ford approved legislation directed at achieving early development of geothermal energy resources. This legislation, the Geothermal Energy Research, Development and Demonstration Act of 1974 (P.L. 93-410, 88 Stat. 1079), aimed at promoting the development of commercial geothermal energy systems by coordinating research and development at the Federal level and establishing a loan guaranty program for financing geothermal development.

The legislation was based on several important findings. First, Congress felt that the present Federal organization structure and level of funding for geothermal research and development was inadequate. Second, the legislation recognized that the early development of geothermal energy would only come through a national commitment to enlist the cooperation of private and public sectors. Third, the Congress found that currently developed geothermal systems had limited potential, but that other geothermal resources different from those currently in use had extremely large energy content. Fourth, technologies were not available for the development of most non-conventional geothermal systems. Fifth, Federal financial assistance was necessary to encourage the development of geothermal resources, most of which are on Federal lands.

These findings evolved out of comprehensive hearings which were held by the Senate Committee on Interior and Insular Affairs in June, August, and November, 1973 in Washington, D.C., Klamath Falls, Oregon, and Idaho Falls, Idaho.

At the Senate hearings, five major issues were developed, including: the overview of Federal efforts to date, the geothermal leasing program, problems in exploration and resource appraisal, research priorities, and problems of achieving rapid development of geothermal systems.

Federal efforts for developing geothermal resources on Federal lands had begun over a decade earlier. In July and October, 1963, the Senate Interior Committee first held hearings on the subject. In the 89th Congress, legislation to authorize the Secretary of the Interior to develop Federal geothermal resources through a leasing program was passed by both chambers (S. 1674). However, this legislation was vetoed by President Johnson because he found it "flawed" in several respects, especially because it gave leasing preferences to persons who had already undertaken exploration of geothermal resources. The President viewed this as an unlimited and unwarranted free gift of public resources.

During the 90th and 91st Congresses, the House and Senate committees worked to resolve the issues surrounding the Presidential veto. These problems were resolved and the Geothermal Steam Act of 1970, reported by the Senate Interior and Insular Affairs Committee, was signed into law on December 24, 1970 (P.L. 91-581, 84 Stat. 1566).

The major intent of the Act was the prompt and orderly development of geothermal resources on public lands. The major device for achieving this objective was the authorization to the Secretary of the Interior to issue leases for the development and utilization of geothermal steam resources on public lands. The Secretary was instructed to survey geothermal resources and classify them into two types: "known geothermal resources areas" (KGRA) and other areas where there was potential for development. The Act called for leases to go to the highest qualified bidder in KGRA's and to the first qualified person making application for leases in other areas. Royalties from these leases were to be not less than 10 percent nor more than 15 percent of the amount or value of the steam.

At the Senate hearings on geothermal energy in June 1973, Assistant Secretary of the Interior Jack O. Horton provided the following summary of the agency's activities since 1970:

> Having been assigned the primary Federal role for carrying out the Act, the Interior Department has proceeded to translate its provisions into working regulations.
>
> While blending the legislative objectives and the requirements of technology, sound economics and the environ-

> ment is complex, we are moving vigorously to assure that the Congressional purpose is carried out.
>
> In preparing regulations to supplement the Act, we have undertaken environmental studies, held public hearings and reviewed comments and views of others in accordance with the National Environmental Policy Act.

During the questioning, the Department's effort to "vigorously" implement the Act was seriously questioned. Some witnesses felt the Federal effort had not provided the necessary leadership to bring about coordinated public and private efforts. Senator Alan Bible (D., NV), for example, stated:

> The unhappy fact is that up to this point at least Government itself has been a major barrier to progress. It has now been almost two and a half years since the Congress enacted the Geothermal Steam Act, opening the public lands to geothermal development. The Administration has yet to promulgate the regulations needed to implement that act and place industry in a position to proceed with exploration and development.

Senator Church observed that the Federal effort was actually more successful internationally than domestically. Officials from the U.S. Agency for International Development testified that AID was undertaking projects in Indonesia and the Philippines totaling $4.5 million, only $500 thousand less than the total domestic geothermal research and development budget request for Fiscal Year 1974.

The Committee members also showed interest in the progress, or lack of it, in the leasing program. By June 1973, the Interior Department had not yet scheduled the first lease sale, nearly two years after the first lease sale had been promised. Assistant Secretary Horton testified the delay was primarily due to publication and circulation of a required environmental impact statement. Several Committee members observed, however, that it was difficult to understand how one statement could be held up this long since other projects had gone forward with considerably less delay. Senator Bible observed that geothermal development could not go forward if potential developers were denied access to Federal lands. He added, "geothermal power is not only trapped underground, it is also trapped in the bureaucratic pipelines." The Department ultimately held its first lease sale in January 1974.

Testimony before the Committee revealed a wide disparity between the estimates for all forms of geothermal energy. The estimates for electrical power generation from geothermal sources in 1985, for example, ranged from 4,000 Megawatts (MW) to 132,000 MW. This wide range of estimates was due primarily to the lack of solid geological evidence on the size, extent and nature of geothermal systems. As Dr. Gordon Eaton of the U.S. Geological Survey pointed out, present estimates "are strictly guesswork at this point; we really don't have much of a national inventory so that these (figures) are guesses, they are not based on fact." He added that the estimates available are based on a statistical sample of less than two dozen geothermal systems:

> The question of where the United States geothermal energy resources are is easy to answer in the broad geographic context. Within this large region, however, the specific distribution, extent, and magnitude of geothermal resources are only sketchily known. About 1.8 million acres of land in the western states have been classified as "being within Known Geothermal Resources Areas (KGRA's)," according to the Geological Survey. An additional 96 million acres are listed as having "prospective value" for geothermal resources.

Another concern expressed by witnesses at the hearings involved the ongoing research and development (R&D) efforts. A problem was the lack of discussion of R&D goals for agency programs within the context of an overall R&D program. Another problem which surfaced at the hearings was the lack of a coordinating mechanism across agency boundaries on geothermal R&D. Testimony revealed that over ten Federal agencies were involved in geothermal R&D at one phase or another. Finally, financing for geothermal R.&D. was viewed as insufficient to meet anticipated needs. Senator Frank Church (D., ID) observed, for example, that the present R.&D. financing was "tokenism in terms of really moving forward with the development of new technologies in this field."

Finally, the Committee heard considerable testimony on how it could realize the development potential of geothermal systems. Several witnesses claimed that Federal policies did not encourage private participation in the development of geothermal resources owing to an ineffective leasing system. Beyond that, however, witnesses felt greater Federal involvement—either in the form of financial guarantees or joint ventures—would be needed to stimulate the interest of industry.

To resolve these problems, Senator Bible and others on the Interior Committee introduced S. 2465, the Geothermal Energy Act of 1973. The measure had two primary aims: to establish a Federal loan guarantee program to finance private geothermal development, and to coordinate and expand Federal programs for research, development and demonstration of geothermal energy technology.

The loan guarantee program would authorize the Secretary of the Interior to guarantee loans made by financial institutions to qualified borrowers for the purpose of geothermal energy development. Up to 75 percent of the cost of the proposed project could be guaranteed; however, no more than $25 million could be guaranteed for any single project nor more than $50 million for any borrower.

To achieve the second goal, the Secretary of the Interior would be directed to take the lead in developing a resource inventory and to coordinate a geological research program with the Atomic Energy Commission. This title also authorized the Atomic Energy Commission, in cooperation with private industry, to undertake a research and development program designed to achieve early development of geothermal resources.

Formal action on S. 2465 was not taken immediately. Instead, the substance of the bill was added as a separate title to S. 1283, the National Energy Research and Development Policy Act of 1973. This legislation was passed by the Senate on December 7, 1973.

Committee jurisdictional disputes in the House threatened to delay action on the House passed bill. Thus, on July 11, 1974, the Senate passed a separate geothermal energy bill—S. 2465. This legislation with a few minor differences, was identical to the geothermal legislation passed by the Senate earlier, and could be processed by House committees more easily under House Rules then in effect.

In mid-August, 1974, a compromise bill was reported out of a conference committee and was passed by both chambers. On September 3, 1974, the President signed into law the Energy Research, Development and Demonstration Act of 1974.

This bill as enacted closely paralleled the House bill. Title I, established the Geothermal Energy Coordination and Management Project to have overall responsibility for management and coordination of the national geothermal research effort. The Act required the Project to: (1) determine and evaluate the geothermal resource base; (2) research and develop exploration, extraction and utilization technologies; (3) demonstrate appropriate technologies; and, (4) administer the loan guarantee program.

The Act required the Project Chairman to transmit to Congress a comprehensive program outlining the manner in which the Nation's geothermal resources can best be developed. The Chairman was required to resolve a number of specific technical problems related to geothermal development, including: efficient drilling methods, reliable predictive methods, improved methods for converting geothermal resources and by-products, and development and evaluation of waste disposal control technologies.

The Chairman was required to initiate a program to design and construct geothermal demonstration plants. The aim of this program is to attain the development of economical geothermal resource production systems that meet acceptable environmental standards. In working toward this goal, the Chairman is authorized to work with non-Federal entities and provide for the establishment of one or more demonstration projects, "which shall include, as appropriate, all the exploration, siting, drilling, pilot plant construction and operation, demonstration plant construction and operation, and other facilities and activities which may be necessary for the generation of electric energy . . ."

The loan guarantee program established by the Act was similar to that proposed in the original Senate measure. However, the final legislation required the Chairman of the Project to designate the head of a Federal agency with competence to process applications to handle the program. The final bill also retained a provision which authorized the making of loan guarantees for the determination and evaluation of the resource base and for research and development with respect to extraction and utilization technologies.

Action by the 94th Congress

The Federal Nonnuclear Research and Development Act of 1974 (P.L. 93-577) and other R&D legislation passed that year gave direction to a major increase in funding for alternative energy programs, at a time when funding for nuclear energy was becoming more controversial. Where once these alternative energy sources had been considered strictly long range alternatives, several Members of Congress began to suggest that solar energy (defined by the Energy Research and Development Administration to include wind energy, ocean thermal energy, and energy from biomass), and geothermal energy might provide a substantive contribution to the Nation's energy supply much sooner than had been supposed.

Reexamination of Spending Priorities.—Concurrent with debate over nuclear development, then, grew an increasing recognition of the disparities between nuclear and non-nuclear development in the ERDA program and budget. In hearings before the 94th Congress, one ERDA official testified that solar energy, the breeder program, and fusion were considered to be the three most promising long-range alternatives for energy in the United States. Several Members of the Congress, however, argued that the ERDA budget was skewed to favor nuclear energy, and speculated whether financial support for nuclear research and development might not be at the expense of solar and geothermal development, and the development of conservation technologies.

The net result was that Congress dramatically increased the authorizations for research and development in alternative fuels in the ERDA budgets for Fiscal Years 1976 and 1977. Members endorsed solar power both for its own sake and frequently as an alternative to nuclear power. Solar power was seen as essentially limitless and essentially free of risk, while solar technologies were perceived as apparent and well-established. Solar research and development was to be directed toward reducing the cost of the hardware while increasing its efficiency, and toward broadening the scope of solar application through successful and progressive demonstrations.

Research, development and demonstration of energy conservation technologies also received attention and praise. Budget authority for conservation rose form $36.0 million in Fiscal Year 1975 to $74.0 million in Fiscal Year 1976 and $160.0 million in Fiscal Year 1977, representing an increase from 2.7 percent to 6.5 percent of the total R&D budget.

Nuclear research and development, 52 percent of the total budget for direct energy research and development in Fiscal Year 1975, was budgeted by the 94th Congress at 40 percent of the Fiscal Year 1977 budget in direct energy R&D, while the percentage for solar development, which had been 3.1 percent in Fiscal Year 1975, was increased to 12 percent for Fiscal Year 1977. In evaluating the percentage shifts, however, it should be considered that the ERDA budget for direct energy R&D itself doubled between Fiscal Years 1975 and 1977. Therefore, while the nuclear R&D share declined by 12 percent, the nuclear authorization actually increased in this period by nearly $200 million; similarly, while solar energy's share of the budget showed a fourfold increase, the actual dollar figure rose from $42.0 million to $290.0 million, a sevenfold increase.

Congress was generally supportive of energy conservation and solar and geothermal energy research and development but while congressional enthusiasm for conservation and solar energy was robust and vocal, interest in geothermal development was fairly low key. For the most part, authorization and appropriation figures for geothermal development were altered only slightly, if any, as the legislation was reported from committee. Most geothermal provisions in the ERDA program received little comment or discussion on the floor of either House, probably because extended debate on the subject had taken place during the 93d Congress, resulting in a major enactment—The Geothermal Energy Research, Development and Demonstration Act of 1974, signed on September 3, 1974 (P.L. 93-410, 88 Stat. 1079).

Authorization and appropriation levels established by the 94th Congress for the ERDA program in solar energy were sharply higher than the more modest increases recommended for solar development by the Office of Management and Budget. Citing ERDA's conclusion that the three most practical options for long-term energy supply were fusion, the breeder reactor and solar electric power, several members of Congress contended that the pace of solar development was not commensurate with that of fusion and breeder research. Other members of Congress, however argued that the solar program could not responsibly absorb authorizations successively doubled and tripled from one fiscal year to the next, and that such massive expenditures in solar energy would not achieve "the great leap forward." Despite the controversy, most amendments on the floor to raise spending for solar energy passed amidst lively debate.

For Fiscal Year 1976, the Ford Administration request for $70 million for solar research and development was doubled in the House Science Committee and boosted further to $194 million on the House floor. In the Senate, the request also was increased, although not as dramatically. After conference, the final bill authorized $173 million for solar energy and $56 million for geothermal energy (Energy Research and Development Administration Appropriations Act of 1975, P.L. 94-187, 89 Stat. 1063).

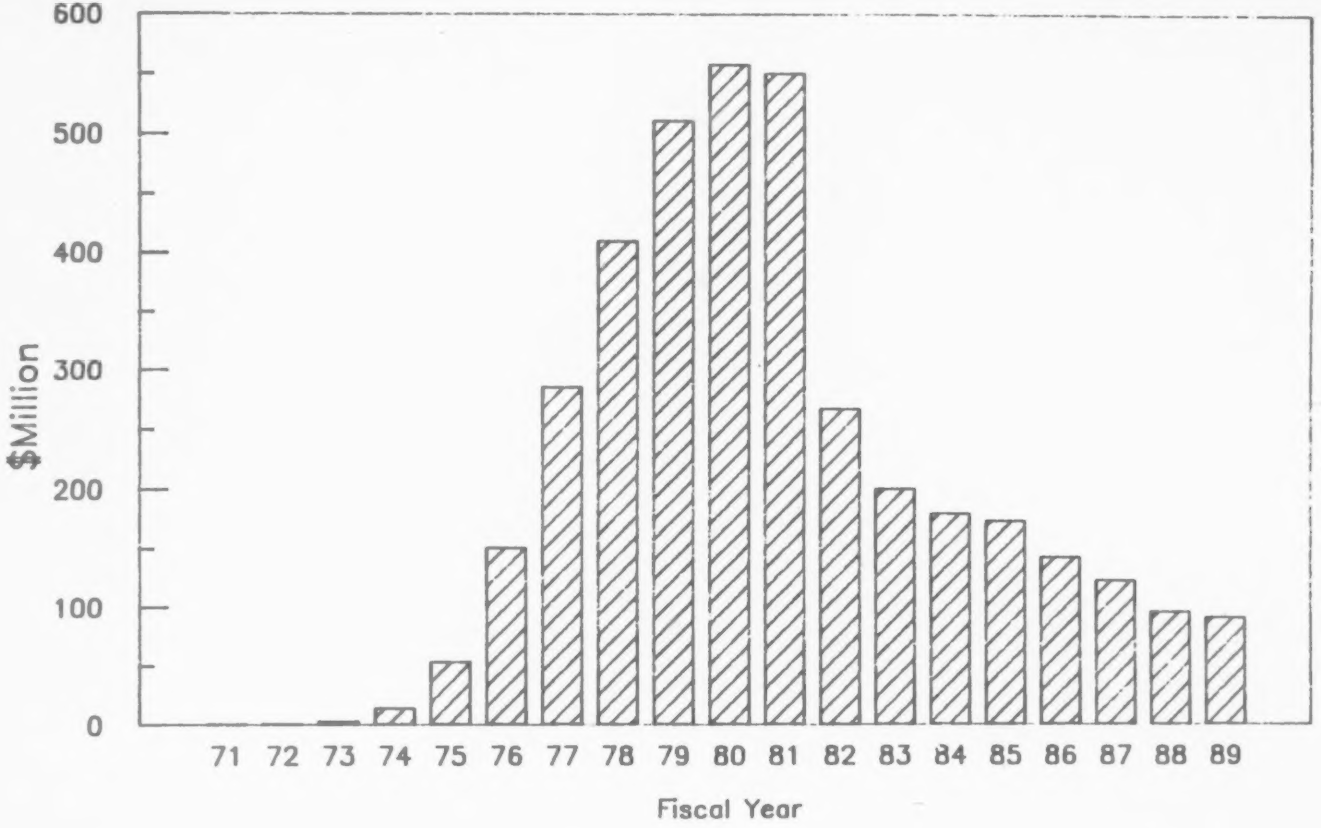
A similar process occurred for the Fiscal Year 1977 authorization, at a higher level. The Ford Administration requested $115 million; the House boosted the authorization to $229 million in committee and $345 million on the floor. The Senate Interior Committee reported a bill with $278 million for solar programs, and that figure remained in the bill as passed on the Senate floor. The conference agreed on a figure of $320 million. Because of controversies over synfuels proposals and other delays, the Senate was unable to finish action on the Fiscal Year 1977 authorization before the end of the 94th Congress, and a virtually identical bill introduced at the beginning of the 95th Congress was not cleared for the President until May 1977, with the fiscal year more than half over (P.L. 95-39, 91 Stat. 180).

Alternative Energy R&D; Zenith and Decline.—Funding for alternative energy technology continued to increase during the Carter Administration. Solar programs authorizations reached $599 million for Fiscal Year 1981. However, controversies such as those that blocked the Fiscal Year 1977 authorization in the 94th Congress continued to plague the Senate and House authorizing committees. As a result, authorization legislation tended to be focussed on setting goals for specific programs. The Ocean Thermal Energy Conversion (OTEC) Research Development and Demonstration (RD&D) Act of 1980 (P.L. 96-310, 94 Stat. 941), and the Wind Energy Systems Act of 1980 (P.L. 96-345, 94 Stat. 1139) are examples.

Despite such goal-oriented directives which accompanied the ambitious R&D funding and the many tax and regulatory provisions aimed at encouraging commercialization of alternative energy sources, the high expectations of mid-1970s for these technologies were not realized. The Reagan Administration from its first month aimed at eliminating funding for the programs, and the Congress, while refusing such drastic action, agreed to substantial reductions in energy R&D funding. By the end of the 100th Congress, solar program funding was at $92 million for Fiscal Year 1989—less, after adjusting for inflation, than it had been in Fiscal Year 1975.

Energy Conservation Programs Also Wax and Wane.—Support and funding for conservation traced a similar pattern, increasing to $526.7 million in Fiscal Year 1978, $630.9 million in Fiscal Year 1979 and $779.4 in Fiscal Year 1980. This was not surprising, given President Carter's declaration in 1977 that conservation was to be the "cornerstone" of his national energy plan. Congressional support for conservation programs grew a little more selective during consideration of the Carter Administration's Fiscal Year 1981 budget request, which asked for a 31 percent increase in conservation funding. The House joined the Senate in funding reductions for grant programs, energy impact assistance programs, the schools and hospitals programs and weatherization. In sum, the conservation budget for Fiscal Year 1981 was reduced from the more than $1 billion requested to $862.1 million, an amount nonetheless 10 percent higher than the previous fiscal year.

SOLAR R&D FUNDING, FISCAL 1971 THROUGH 1989



With the accession of the Reagan Administration, Congress continued to exercise a moderating role on the Administration. But now, the roles were reversed, with the Administration seeking substantial reductions in conservation spending, and the Congress restoring these funds.

The new Administration's National Energy Plan (NEP-III) stated that rising energy costs and some tax credits would be sufficient incentive to promote conservation without massive Government assistance. While recognizing that higher prices were hardly a boon to the poor, the Administration's position was that a growing and healthy economy was the best way to help the economically disadvantaged and that energy policy could no longer be a tool of social policy.

The Administration requested only $102 million for conservation in Fiscal Year 1982, including significant reductions to R&D, regulatory and grant programs. Congress agreed to reduce, if not terminate those programs, setting, for example, R&D to $182 million, a considerable reduction from the 1981 funding level of $290 million, but significantly more that the $86 million sought by the Administration. Utlilizing Fiscal Year 1981 deferrals of $240.8 million and new appropriations of $145.5 million, total conservation funding for Fiscal Year 1982 was $385.9 million.

The ability to utilize deferred funds from the large Fiscal Year 1981 appropriation was not an option for Fiscal Year 1983. In its request for Fiscal Year 1983, the Administration requested only $21.5 million for conservation, and scheduled a number of programs for termination. Congress responded by assembling its own conservation budget, with $279.3 million in new budget authority and $88 million in other funds, for a total $367.3 million in total budget authority for conservation. While, on the one hand, Congress appeared to have been the great defender of conservation, spending for conservation during the first years of the Reagan Administration was considerably less than it had been when conservation was the "cornerstone" of U.S. energy policy.

In subsequent years, the Administration continued to request very low funding levels for conservation and the Congress maintained spending in the range of $300–$400 million. For Fiscal Year 1989, for example, the Administration requested $89.4 million, while House and Senate conferees agreed ultimately to $372.5 million.

SYNTHETIC FUELS

Extracting useful gas and liquid fuels from America's vast supplies of coal, oil shale and other solid or unconventional energy sources has long been a goal of Federal policymakers concerned about U.S. dependence on foreign oil. As early as 1946, with enactment of the Synthetic Liquid Fuels Act, Congress has tried to develop commercial technologies for producing synthetic alternatives to imported energy supplies. But low oil prices doomed those original efforts, which were largely forgotten until U.S. energy vulnerability became increasingly obvious in the early 1970s.

The Committee on Interior and Insular Affairs, however, had never forgotten the potential of oil shale and other synthetic fuel sources, and it was ready to take action when the energy crisis began breaking. The Committee's National Fuels and Energy Study included numerous hearings on synthetic fuels in the early 1970s, laying the legislative groundwork for the multibillion-dollar synfuels commercialization effort of the 1980s. Today that effort has resulted in five operating, commercial-scale synthetic fuels plants that use the full spectrum of domestic energy resources. Although that program was cut short over the Committee's strenuous objections, it did provide the seeds of a new Federal program to demonstrate cleaner coal-combustion technologies.

Laying the Groundwork

When the Nixon Administration announced a program for leasing oil-shale production rights on Federal lands in 1971, the Committee was concerned that such leasing be implemented properly and that competitive oil-shale technology be developed. Chairman Henry Jackson drafted a bill (S. 1846) for a coal-gasification corporation. Senator Frank Moss (D., UT) introduced legislation (S. 2510) to set up a New Energy Sources Corporation to build and operate demonstration plants using such energy sources as oil shale, tar sands, and sunlight. Senator Moss chaired a hearing on November 15, 1971, on the leasing program and the two bills, noting in his opening statement:

> The energy requirements of the United States dictate that the Congress must carefully examine the potential of oil shale development as well as all other potential energy sources for supplying the growing energy need of our Nation.
>
> In June of this year the Department of the Interior announced a program for oil shale leasing. The Committee desires to review the prospects for the proposed leasing program, and the provisions of the proposed leases. Matters of special interest to the Committee include the provisions which have been made for protection of the environment, for avoiding monopoly control over oil shale resources, and for insuring a fair return to the Federal Government for the use of public resources.
>
> In view of the conclusions with respect to feasibility and economics for shale oil production accompanying the Department of the Interior's proposed leasing program for oil shale and the absence of any similar Government-industry research effort, it appears that the Department believes factors are now favorable for the construction of a prototype plant now. This conclusion is supported by the timetable for commercial production of shale oil included in the department report.

But Senator Moss questioned "whether the 1971 program announced by the Administration will actually achieve its goals of stimulating the timely development of commercial oil shale technology," adding:

> I believe we are at the point where the Government should embark upon a realistically funded research effort

> to reduce the cost of producing pollution-free fuel. That is the basis for my sponsorship of the coal gasification development corporation bill, S. 1846, for coal, and my bill, S. 2510, for the development of new energy sources, such as oil shale.

The Committee took action on those ideas in the next Congress, reporting legislation (S. 1283) on Dec. 1, 1973, to create a 10-year, $20 billion Federal research, development and demonstration program for new, non-nuclear energy sources, particularly synthetic fuels. Government loans, price gurantees and other assistance were authorized to quickly bring new technologies to commercial availability. The commercialization program, according to the Committee report, was designed to move beyond basic Government energy research, which had been generally limited to "the refinement of scientific knowledge, while the massive problems and costs of full-scale application remain relatively unproven and often unexplored." The full Senate approved the measure on December 7, 1973.

Spurred by the Arab oil embargo, the House passed similar legislation the following year, and the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577, 88 Stat. 1878) was cleared by Congress on December 17, 1974. The huge research program envisioned by the law was entrusted to the new Energy Research and Development Administration (ERDA), which was established the same year.

In 1975, for the first ERDA authorization bill, the Committee tried to get the synfuels program going by authorizing up to $6 billion in loan guarantees for construction of synthetic fuels demonstration and pilot plants. The Committee reported its portion of the fiscal 1976 ERDA authorization (S. 598) on July 24. Although the Committee's synfuels loan guarantees wee adopted by the full Senate, the House rejected the proposal and it was eventually dropped from the final authorization act (Energy Research and Development Administration Appropriations Act of 1975, P.L. 94-187, 89 Stat. 1063).

Synthetic Fuels Corporation

The Committee did not give up, however, and its persistence finally paid off in 1978 with the first authorization act (Department of Energy Act of 1978, P.L. 95-238, 92 Stat. 47) for the new Department of Energy—ERDA's successor agency. The authorization act amended the Federal Nonnuclear Energy Research and Development Act to authorize DOE loan guarantees for projects to manufacture synthetic fuels from oil shale, coal, organic matter, and other abundant domestic resources. The fiscal 1980 Interior and Related Agencies Appropriations Act (P.L. 96-126, 93 Stat. 954) created a $19 billion Energy Security Reserve and earmarked $1.5 billion to be used by DOE for synfuels projects and $200 million for alcohol fuels plants as authorized by the amended Nonnuclear act.

Creation of the Energy Security Reserve came in tandem with establishment of the U.S. Synthetic Fuels Corporation (SFC) by the 1980 Energy Security Act (P.L. 96-294, 94 Stat. 611). The SFC was designed to be relatively free of the Federal bureaucracy so it could quickly select synthetic fuels projects for assistance—such as loan and price guarantees—in a businesslike manner. DOE handed over its synfuels commercialization efforts under the Nonnuclear Act to SFC—which also got the remaining funds in the Energy Security Reserve—as soon as the new corporation began full operation.

Establishment of the Syntheic Fuels Corporation and its guaranteed funding from the Energy Security Reserve have been credited largely to the Comittee's unswerving, united commitment to the program as the legislation worked its way through both Houses and a conference committee. After a decade of much debate but no actual synfuels plants under construction, the Committee had finally achieved its goal. Chairman Jackson reflected on that history in his comments upon final passage of the Energy Security Act conference report by the Seante on June 19, 1980:

> Mr. President, the conference report before the Senate today represents the culmination of a year and a half of work on the Energy Security Act.
>
> In a broader sense, however, it represents the culmination of more than 10 years of congressional effort to bring a major national synthetic fuels program to fruition.
>
> The subject is hardly new to the Committee on Energy and Natural Resources or to the Senate. The promise of synthetic fuels has occupied our attention since the O'Mahoney-Randolph Synthetic Fuels Act was passed back in 1944. It has figured prominently in every major plan for energy self-sufficiency developed over the years.
>
> In the early 1970s I introduced legislation to establish a Coal Gasification Development Corporation. It was opposed by the then administration and no final action was taken.
>
> In the Federal Nonnuclear Energy Research and Development Act of 1974, we authorized a broad program to foster commercial-scale demonstration of coal gasification, oil shale, and coal liquefaction.
>
> The Senate has consistently supported efforts to achieve a national synthetic fuels production capability. In 1975, we approved the Synthetic Fuels Act [as part of the ERDA authorization] to authorize $5 billion in loan guarantees for new energy technologies—only to have the provision rejected by the House.
>
> The Department of Energy has been given authority to guarantee loans, to provide price guarantees, purchase agreements, and the authority for government-owned/contractor operated synthetic fuels projects.
>
> But none of these authorities has produced any major demonstrations of synthetic fuels technologies.
>
> Our programs to explore this vital energy option have been stifled in the annual budgetary process and by the vagaries of bureaucratic decisionmaking.
>
> Mr. President, I say to the Senate that it is time to put away our indecision. It is time to recognize today's energy reality and the hazard to our future national security. It is time to take the bull by the horns and get about the business of bringing commercial synthetic fuel projects on line.

The Senate approved the conference report on the Energy Security Act by a vote of 78–12, and President Jimmy Carter promptly signed it into law and began implementing it.

Pending startup of the newly established Synthetic Fuels Corporation, DOE used its authority under the Nonnuclear Act and the funds earmarked to it from the Energy Security Reserve to provide loan guarantees for the Great Plains coal gasification plant in North Dakota and the first phase of Unocal's Parachute Creek oil shale project in Colorado.

When SFC began operating, it had $14.9 billion available from the Energy Security Reserve. During the next five years, it obligated $120 million to the Cool Water gasified-coal power plant in California, $620 million to the Dow Syngas gasified-coal power plant in Louisiana, $60 million to the Forest Hill heavy oil recovery project in Texas, and $500 million more to the Unocal oil shale plant.

But the synthetic fuels commercialization program was hampered by political controversy from the start, beginning with the Senate's refusal to confirm President Carter's nominees for the seven-member SFC Board of Directors. After President Ronald Reagan took office, the new Board moved slowly on assisting projects and came under attack for allegedly giving itself high salaries and benefits. Beset with internal problems, the board found itself without a quorum to make decisions during most of 1984.

Those problems were compounded by the easing of the crisis atmosphere of the late 1970s, as oil and gas supplies appeared plentiful and prices fell. Despite an ominous rise in oil imports, many lawmakers began to view the multibillion-dollar fund that had been set aside for the synthetic fuels program as an easy way to cut the Federal budget. As energy prices dropped, SFC's slowness in reaching financial assistance agreements forced many promising synfuels commercialization projects to be abandoned by their private-sector sponsors.

Attacks on the synfuels program mounted during 1984, but Chairman McClure and other members of the Committee won a compromise on the fiscal 1985 Continuing Appropriations Act (P.L. 98–473, 98 Stat. 1837), which substantially reduced the remaining funds in the Energy Security Reserve but authorized a $750 million Clean Coal Technology Reserve to assist private-sector clean-burning coal projects. Demonstration of clean coal technologies had become a high Committee priority and was consistent with the goals of the synthetic fuels program (with some proposed projects actually overlapping between the two). After many hearings, the Committee had determined that electric utilities could not afford the risk of demonstrating new, more efficient coal-combustion technologies without Federal support. And those technologies were crucial for protecting the environment and allowing wider use of abundant domestic coal resources.

Unfortunately, the compromise was short-lived, and opponents of the synfuels program mounted a drive the very next year to eliminate it altogether. Chairman McClure, Ranking Democrat Johnston and other Committee leaders fought to save the synthetic fuels commercialization effort when the fiscal 1986 continuing resolution came to the Senate floor December 6, 1985. Senator Johnston pointed out:

> We have over $1.4 billion of private funds that have already been invested, Mr. President, in the synthetic fuels technologies.
>
> It is time this country decided to do something and carried it through and does not start and back up and change its mind and change policies and leave the private sector out there hanging with $1.4 billion invested.
>
> The synthetic fuels movement is not for 1985. It is for the 1990s. But if you are going to have it in the 1990s you have to invest money in it and learn about commercialization and do these things that the Synthetic Fuels Corporation proposes to do today. We need to do it today, Mr. President, so that by the 1990s it will be there when we need it.

Chairman McClure urged the Senate to allow the synfuels program to go forward as agreed the previous year, now that SFC had new board members and a carefully drafted business plan:

> Just about 8 months ago they finally got enough board members confirmed through the Senate so that they could go forward with the revised business plan.
>
> Now, they are being continually hit over the head after Congress has hamstrung them, continually hit over the head by the fact that they have not produced more. For heaven's sake, we have not let them produce more. We are as guilty of interference in their affairs as anyone may be. Regardless of what their problems may have been in the past, Congress should not again interfere in that process.
>
> They are going forward now with a business plan that was revised precisely according to the agreement entered into just less than a year ago now. I think they are entitled to move forward.
>
> Second, as the distinguished Senator from Louisiana indicated, our dependence upon imported oil is increasing. I would ask only if you do not look at anything else, look at the new Department of Energy oil import forecast. If you can be complacent in the face of that, I defy your logic or your judgment. You simply cannot be complacent.

But those warnings were not heeded, and the final bill (P.L. 99-190, 99 Stat. 1185) abolished SFC, transferred $400 million from the Energy Security Reserve to the Clean Coal Technology Reserve, and rescinded SFC's remaining funds.

Despite SFC's premature dismantlement, the Committee's work on synthetic fuels has unquestionably enhanced future U.S. energy security by demonstrating a broad spectrum of synfuels technologies on a commercial scale. The technical problems overcome by those projects will prove invaluable when domestic fuel shortages occur again.

The five synfuels projects already underway before SFC's abolition remain eligible for the full amount of their loan and price guarantees. With a loan guarantee, the Government must pay back lenders if the project's sponsors default. Under a price guarantee, the government pays a subsidy to the project's sponsors if energy prices fall below a pre-determined level. All five federally aided synfuels projects continue to operate to date, producing vast amounts of useful technical data.

The first project to operate successfully was the Cool Water plant, an electric power plant that burns gasified coal. Designed originally as a demonstration project, Cool Water has run efficiently on many types of coal and can meet most federal emissions standards without additional pollution-control equipment. The plant today produces the energy equivalent of 4,300 barrels of oil per day.

The Great Plains plant, which produces pipeline-quality gas from lignite, is also operating successfully, although the four gas pipeline companies that built the plant defaulted on their DOE-guaranteed loans in August 1985. DOE took over the plant and has run an operating surplus of $1-2 million per month, producing 145 million cubic feet per day of synthetic natural gas—the equivalent of 24,000 barrels of crude oil. The project has operated so successfully that DOE reached an agreement in August 1988 to sell it to Basin Electric Power Cooperative for an estimated present value of $600 million.

Unocal's oil shale plant, which struggled for years to overcome unexpected technical problems, began producing commercial quantities of synthetic crude oil in January 1987. Managers of the project are optimistic that it will reach its designed capacity of 10,000 barrels per day.

The Dow Syngas plant has been successfully producing the energy equivalent of about 5,000 barrels of oil per day since May 1987. The Forest Hills heavy oil project, which began production in April 1987, expects to meet its designed average production of 1,750 barrels per day.

In addition to leading directly to those five successful, commercial-scale projects, the Federal synfuels program also provided the startup funding for the Clean Coal Technology Demonstration Program now being implemented by DOE. The $400 million transferred from the Energy Security Reserve has already been awarded to the first round of clean coal projects, and a second solicitation, with up to $575 million in Federal support, has been funded. Most of the cost of the projects—involving such promising technologies as atmospheric fluidized bed combustion—is being paid by the private sector. The program is a vital element in implementing President Reagan's acid rain reduction agreement with Canada.

The five Federally assisted synthetic fuels projects, combined with the Clean Coal Technology Demonstration Program, will help assure the Nation's ability to turn to abundant domestic energy sources in the face of future worldwide shortages.

AUTOMOBILE FUEL ECONOMY STANDARDS

The Arab embargo of 1973-1974 brought sharp focus on the relative inefficiency of U.S. automobiles. New car fleet fuel economy had declined from 14.8 miles per gallon (mpg) in model year 1967 to 12.9 mpg in 1974. In the search for ways to reduce dependence on imported oil, automobiles were an obvious target.

The Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871), enacted in late 1975, established new car fleet fuel economy standards for passenger cars for model years 1978-1980 and 1985. Interim standards for model years 1981-1984 were announced in June of 1977. These standards are shown in Table 5.

TABLE 5.—FUEL ECONOMY STANDARDS, AS ENACTED

	Passenger cars
Model year:	
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0
1985 and thereafter	27.5

Source: National Highway Traffi [illegible]afety Administration, Automotive Fuel Economy Program. Ninth Annual Report to the Congress. January 1985.

Demand for fuel efficiency and smaller cars waned when gasoline prices declined in real terms following 1974, but rose sharply again after the 1979 Iran crisis drove crude oil prices up again. All manufacturers predicted during 1980 that the 1985 fleets would significantly exceed the mandated 27.5 mpg standard. They argued that consumer demand would compel improvements in the fuel economy of the passenger automobile fleet and render the fuel economy standards virtually irrelevant. Others believed that without the standards, which forced the manufacturers to plan for higher fuel economy, the industry would have been even less prepared to meet the post-1980 demand for small cars than they were.

It is not surprising, then, that the 96th Congress weighed infusing new monies into automotive research and development and establishing new fuel economy standards beyond 1985. At issue in Congressional hearings and committee deliberation was the balance between "regulatory pull," represented by fuel economy standards, and the "technology push" of further research and development.

Neither approach was enacted, but the continued difficulties of the domestic automotive industry appeared likely to keep the issue alive. The 96th Congress did enact some relatively minor amendments to the EPCA fuel economy provisions in the Automobile Fuel Efficiency Act of 1980 (P.L. 96-425, 94 Stat. 1821).

Under EPCA, failure to meet the standards in any given model year subjects a manufacturer to a civil penalty of $5 for each one-tenth of a mile per gallon the corporate new car fleet falls short of meeting the standard—multiplied by the number of vehicles in that fleet. However, failing to meet the standard in any single model year does not necessarily mean that a manufacturer will be found in noncompliance or liable for penalties. Under EPCA, as enacted, the penalties could be offset if the fleet exceeded the standards in the model year immediately preceding or following the year of the violation. The manufacturers would still have been deemed in violation of the law, but the credit would be subtracted from the civil penalty.

The Automobile Fuel Efficiency Act of 1980 extended the "carry forward" and "carry back" privilege to 3 years. It also modified "unlawful conduct" by providing that noncompliance with the standard would only be a violation of the law if there were not sufficiency credits to offset it. If a manufacturer expected to be in noncompliance in a given model year and had not accrued offsetting credits in previous model years, it might be granted relief by demonstrating that its fleet would earn sufficient credits during the next three model years. For example, if a manufacturer's new car fleet fuel economy were to fall short in MY87, the manufacturer could apply credits earned in the 3 previous model years, or—based upon projections of sales and models for the next 3 model years—argue that it would accrue sufficient credits to offset the penalty in MY87.

The Committee at this time held hearings on the potential for improved fuel economy. The reasons for the hearings were succinctly expressed by its Chairman, Senator Henry Jackson:

> The most important purpose of this hearing is to obtain a firm commitment from the Department of Transportation and the Department of Energy to complete the necessary studies that will permit the Congress to establish the post-1985 fuel economy standards, if it so desires, early next year.
>
> Some may ask why we are advocating new fuel economy standards when our domestic auto industry is in deep trouble. Nearly 250,000 autoworkers are now laid off. Total automobile sales were off by 19.8 percent in March. While the recession is a factor, the real cause of Detroit's problems are the imports, which took 25 percent of sales last month. Import sales were off, too, in March by 10.65 percent, but it was still their third best sales month in history. The Labor Department has ruled that 131,000 out of a group of 135,000 Ford and GM autoworkers lost their jobs because of imports, which entitled them to Federal aid.
>
> The automakers say they have gotten the message—the gas guzzler is dead. What I fear is that Detroit will be building a fleet of cars averaging 28 or 29 miles per gallon when Americans are buying imports that achieve 40 or 50 miles per gallon. Detroit has got to do more than play catch-up, if U.S. autoworkers are to stay at work, if the Nation is to endure the next 20 or 30 years of continuing dependence on OPEC oil.
>
> I believe that higher automobile fuel economy is so important that if capital formation is the real barrier to improving auto fuel economy to the levels that are economically justified, then the Congress should give serious thought to providing financial assistance to the domestic automakers. We are committing billions to synfuels and we will probably commit billions more to the utility industry to reduce consumption of fuel oil. Given that one out of every five American workers is associated with highway

transportation or related fields, surely the auto industry deserves similar attention.

But during the mid-eighties, recession and the introduction of conservation technologies reduced world petroleum demand. Demand for the fuel-efficient cars weakened. Total fleet fuel economy met the standards through model year 1982, but slipped thereafter, as shown in Table 6.

TABLE 6.—FLEET FUEL ECONOMY (1978–86)

	Federal standard	Domestic fleet	Import fleet	Total fleet
Model year:				
1978	18.0	18.7	27.3	19.9
1979	19.0	19.3	26.1	20.3
1980	20.0	21.9	28.6	23.5
1981	22.0	23.5	30.4	25.1
1982	24.0	24.5	30.7	26.1
1983	26.0	24.2	31.6	25.9
1984	27.0	25.6	31.5	26.8
1985	27.5	26.2	30.9	27.3
1986	26.0	26.6	31.5	27.9

Source: U.S. Department of Transportation. National Highway Traffic Safety Administration. Automotive Fuel Economy Programs; Seventh, Eighth, Ninth, Tenth, and Eleventh Annual Reports to Congress. January 1983, 1984, 1985, 1986, and 1987.

Basis for Adjusting the Standards

As compliance with the standards began to slip, some manufacturers considered petitioning for a relaxation of the standards. It was not the civil penalties themselves which wre worrisome to the manufacturers. Rather, it was the prospect of being found in violation of Federal statute, which might make them vulnerable to stockholder suits.

EPCA provided that the Secretary of Transportation could amend the CAFE standard to "a level which he determines is the maximum feasible average fuel economy level for such model year." An adjustment of the standard between 27.5 mpg and 26 mpg does not require congressional review. (If the Secrtetary exceeds those limits, the statute makes the decision subject to a one-house veto by Congress. However, such provisions were declared unconstitutional by the Supreme Court in its decision in *INS* v. *Chadha* in June 1983, although this statutory provision was not the direct subject of the Court ruling.)

The Secretary determines "maximum feasible fuel economy" in light of four considerations: (1) technological feasibility; (2) economic practicability; (3) the effect of other Federal motor vehicle standards on fuel economy; and (4) the need of the Nation to conserve energy.

GENERAL MOTORS AND FORD PETITIONS (1985)

In March 1985, both Ford and General Motors filed petitions requesting that the standards be lowered, arguing that they had been only a "target" set by Congress in 1975, and that Congress, recognizing the potential need for some downward adjustment of the standard, clearly delegated that authority to the Secretary. The manufacturers argued that the standards wre intended to help assure that the domestic industry would not suffer economically from an inability to meet a demand for more fuel-efficient cars, and that now—because market forces had changed the sales mix of cars sold—the standards threatened to compromise the economic health of the industry. GM and Ford warned that, to achieve compliance, they might have to curtail production of larger, less efficient cars, with a consequent loss of jobs in the industry. This was not justified by the incremental conservation benefits of a 27.5 mpg versus a 26.0 standard, they said.

Chrysler opposed the petition, arguing that it had successfully met the standards, and would be competitively disadvantaged because it was too late for Chrysler to adjust its vehicle line-up to take advantage of the change. Chrysler argued that GM and Ford were bluffing when they threatened to shut down production and lay off workers in order to achieve compliance, and predicted that GM and Ford's civil penalties would be dwarfed by the predicted profits earned on the larger cars. Chrysler also believed a reduction of the standard was symbolically unwise and poor public policy.

In May 1985, the Committee's Subcommittee on Energy Regulation and Conservation conducted oversight hearings on the fuel economy standards and the pending request for a rollback. At issue was whether Congress should intercede to prevent the NHTSA from exercising the authority granted it in EPCA to adjust the standards. Senator Dale Bumpers framed the issues he thought the Committee needed to weigh:

> The most important question is that of the competitive impact of a rollback. Chrysler has complied with the standard. Will it be unduly harmed in competing with Ford and GM if they are allowed to avoid the standard? I would like to think that Chrysler's greater efficiency would give it a competitive edge regardless of the existence of standards. Our experience has shown, however, that consumers do not always value fuel efficiency as highly as we might like. There are definite signs that consumer concerns about efficiency are waning, which is cause for concern.
>
> A second question is whether permitting a rollback would simply allow the noncomplying companies to thumb their noses at the law, or do they have legitimate arguments that imposing duel standards is an outmoded method of achieving efficiency? I do not doubt that all of us would like to think that the actions of the market place would guarantee the proper level of energy efficiency, but our experience in the 1970s shows that the automobile market was not able to cope with sudden disruptions to the detriment of both the country and domestic car manufacturers. Consequently, any decision on a rollback should also take into account the chances of another sudden disruption, other available countermeasures to a disruption and the possible consequences if those measures shall fail.

Senator J. Bennett Johnston (D., LA), while mindful of the likelihood that oil disruptions and shortages were apt to occur again, nonetheless offered other reasons why Congress should allow existing law to take its course. This was the point of view which ultimately prevailed:

> I think the argument that we ought to relax these standards because of a surfeit of fuel, because there's too much fuel in the world, are wrong. That shortage, those high prices, that spiral, will come back on us again in a matter of who knows exactly how long, but probably in a couple of years anyway. So I hope that argument will not be advanced too strongly today in favor of relaxing standards.
>
> However, Mr. Chairman, I think there are ample other reasons for relaxing the standards other than the surfeit of fuel. The surfeit of fuel, or the surplus of whatever one wants to call it, a bubble, is too hard to ascertain and to predict to base policy on in the short term. But it seems to me what we ought to do as regulators is, first of all, regulate only where it is necessary and where we can have some confidence that we are doing good for the economy as well as the American worker.
>
> It seems to me for us to change the law, after having so ceremoniously adopted that law, would be a mistake. In the first place, the gain in fuel savings is very marginal. In the second place, the trend toward fuel economy in our automobiles as we replace the older gas-guzzlers with the newer more efficient automobiles is where you make the real savings, not on the differences between whether there is 1 or 2 miles per gallon difference in the new automobiles coming on line today.
>
> There is, of course, Mr. Chairman, ample precedent for doing this. In 1984, NHTSA rolled back the CAFE standard for light trucks from 21 miles per gallon to 19.5 miles per gallon, as they were authorized and empowered to do under the law.
>
> Now, it seems to me there ought to be some certainly as to what Federal law is going to be. We have enacted a Federal law. We have given to NHTSA the authority to relax these standards. It seems to me it would be a great mistake for us now to reverse that action and try by congressional mandate to second guess the automobile industry, which after all has the biggest stake in this game, to penalize them with what some people would like to do, up to $1 billion in fines, and further, to inhibit their competitive ability in the world market.
>
> So I oppose taking away the authority from NHTSA.

NHTSA's final rule, filed October 3, 1985, established a 26 mpg standard for MY86. The agency had concluded that GM and Ford had sufficient plans to meet the 27.5 mpg standard, but were prevented from "fully implementing those plans by unforeseen events." Some of the technological improvements, upon which the manufacturers' original projections of improved fuel economy were based, were unsuccessful. NHTSA noted in particular the lack of interest in diesel-equipped passenger cars. It appeared to NHTSA that the only practical options for these manufacturers to achieve compliance in MY86 would be "product restrictions." NHTSA deemed the economic consequences unacceptable.

The agency subsequently ruled, in October 1986, that the standard would remain at 26.0 mpg in model years 1987-1988. An important new issue in setting mileage standards was the decline in gasoline prices during 1986, which made it increasingly unlikely that domestic manufacturers could effectively market additional volumes of smaller cars to boost their CAFE ratings. NHTSA also expressed concern that, without relaxation of the standard, the domestic manufacturers would have an incentive to manufactur their larger vehicles abroad so that these cars would not be included in the fuel economy calculation for domestically manufactured cars. The agency estimated that the reduction to 26.0 mpg during MY87-MY88 might mean a maximum increase in gasoline consumption of 0.29% of projected consumption over the lifetime of the fleet, and might very likely be less. Such a negligible savings, the agency concluded, would not "justify the potential sales losses and job losses associated with maintaining the 27.5 mpg standard for . . . two model years."

Legislation was introduced in the 99th Congress to eliminate the administrative discretion to adjust the standard below 27.5 mpg. The industry also advocated completely de-criminalizing the civil penalties. In July 1985, the Senate debated a "sense of the Senate" resolution favoring retention of the 27.5 standards, but the resolution was tabled by a vote of 52.39.

CAFE Standards and the 100th Congress

U.S. trade emerged as a major issue before the 100th Congress. In its own trade initiative (introduced in the House as H.R. 1155), the Administration included a proposed repeal of the CAFE standards. The Administration argued that the objectives of the standards had been achieved, and that, in a decontrolled market, price would govern fuel economy decisions.

Moreover, the Administration accepted the industry's prediction that the standards, which were intended to protect domestic jobs, might in fact have the opposite effect if domestic manufacturers took large-car production overseas.

Under the Administration proposal, EPA would continue to measure fuel economy to identify any manufacturers facing penalties so that the 3-year carry-forward and carry-back provisions could apply to a final determination of any liabilities.

In February 1988, the Automobile Importers Association filed a petition requesting NHTSA to roll back the CAFE standards for model year 1989-1990 to 26.0 mpg. By the end of the summer of 1988, it appeared likely that the request would be granted and that there would be no concerted Congressional move to thwart it. As gasoline consumption grows due to declining oil prices, the Committee will continue its role in oversight on fuel economy, mindful of balancing the need to conserve oil without imposing an onerous economic burden upon the automotive industry.

APPLIANCE EFFICIENCY STANDARDS

Since the mid-1970's, Congress has consistently supported energy-efficient standards for major household appliances, such as furnaces, water heaters, and air conditioners, as a key component of the Nation's energy policy. But, for years the program was paralyzed by bureaucratic delays and executive branch opposition. The Committee has been closely involved in promoting the program from the start, and helped to resolve the issue by shaping legislation in 1987 to ban the most energy-wasteful appliances.

Testimony at Committee hearings has indicated that homeowners and renters who must pay the operating costs of home appliances often are not the ones who decide which models to buy. Instead, that decision is often made by home builders and landlords, who, because they are interested only in the purchase price, have a strong incentive to select inexpensive, and usually, inefficient models. This incentive to purchase inefficient appliances, despite the fact that higher-efficiency models often recover their higher purchase prices many times over as a result of lower operating costs, undermines the national energy policy of encouraging energy efficiency.

Congress and the Committee have determined, therefore, that limited Government intervention is required to maintain cost-effective energy efficiency in household appliances, which consume a significant portion of the Nation's energy resources.

Federal energy-efficiency standards for household appliances have their roots in the Energy Policy and Conservation Act of 1975 (P.L. 94-163, 89 Stat. 871). The Interior and Insular Affairs Committee took the initiative on conservation requirements in its version of S. 622, one of five bills that were combined into the final law. The Committee voted to give the Federal Energy Administration (FEA) three months to implement Federal energy-efficiency standards and other programs to reduce energy consumption. Such programs were to include lighting efficiency standards of public buildings and standards for non-essential lighting.

In its report (S. Rept. 94-26), the Committee called the legislation necessary to "promote sensible energy conservation consistent with economic recovery, full employment and stable prices."

The final bill, as approved by Congress Dec. 17, 1975, required FEA to establish energy-efficiency targets for major consumer appliances, including refrigerators and freezers, dishwashers, clothes washers and dryers, water heaters, air conditioners, space heaters and furnaces, television sets, stoves and ovens, and humidifiers and dehumidifiers. Such standards were to be set high enough to produce an overall appliance efficiency improvement of 20 percent by 1980 over appliances sold in 1972. Products missing the efficiency targets were to become subject to mandatory standards.

In response to President Carter's 1977 energy package, the newly renamed Committee on Energy and Natural Resources voted to substantially toughen the appliance efficiency standards in the Energy Policy and Conservation Act (EPCA). The Committee approved S. 2057 on Aug. 1, 1977, by a vote of 14-4, requiring FEA (later merged into the new Department of Energy) to set mandatory energy-efficiency standards for nine categories of major home appliances by Jan. 1, 1980. FEA was given authority to set standards for four other types of appliance.

As cleared by Congress Oct. 15, 1978, the National Energy Conservation Policy Act (NECPA, P.L. 95-619, 92 Stat. 3206) required the Department of Energy to set efficiency standards for all 13 categories of applicances included in the Committee bill, with the standards to take effect by the mid-1980s.

DOE, under the Carter Administration, prepared the appliance standards as NECPA required and officially proposed them at the beginning of 1981, but they were withdrawn by the incoming Reagan Administration. Forced by a lawsuit to issue appliance standards, DOE in 1982 and 1983 imposed "no standard" standards—mandating that appliances not be required to meet any efficiency standard. Under the law, the non-standard rules automatically preempted States from establishing their own efficiency requirements, although they were allowed to apply for exemptions.

New lawsuits were filed, and the Federal Court of Appeals for the District of Columbia Circuit in 1985 ordered DOE to establish substantive standards by 1988. In the meantime, several States had won exemptions from the "no standard" policy and had begun issuing their own efficiency requirements. This alarmed appliance manufacturers, who nationwide manufacturing and distribution systems faced severe disruptions from the differing State requirements. As a result, the various interests negotiated a tentative agreement aimed at establishing statutory Federal energy-efficiency standards for the appliances covered by NECPA that was presented to Congress in late 1986.

The Committee supported the compromise plan and worked diligently to resolve the numerous technical difficulties in the complex legislation. Congress approved the measure Oct. 15, but it was pocket-vetoed by President Reagan. Chairman Johnston immediately reintroudced the bill in the 100th Congress (S. 83) and moved it quickly through the Committee. Final congressional approval came March 3, 1987, it became law (the National Appliance Energy Conservation Act of 1987, P.L. 100-12, 101 Stat. 103).

Backers of the National Appliance Energy Conservation Act calculate that the standards in the law will require appliances to be at least 15-25 percent more efficient than the average models sold in 1985. Net savings to consumers from the new efficiency standards are predicted to total $28 billion through the year 2000, with a 6 percent reduction in energy consumption. The law is expected to reduce the growth of peak electrical demand by 22,000 megawatts by the turn of the century, eliminating the need for building about 22 new large power plants.

Congress and the Committee achieved further savings the following year through passage of the National Appliance Energy Conservation Act Amendments of 1988 (P.L. 100-357, 102 Stat. 671), which established statutory efficiency standards for fluorescent lamp ballasts. Banning the least efficient ballasts—the electrical devices that start and operate fluorescent light bulbs—could further reduce peak electrical demand growth by 7,000 megawatts by the year 2000, supporters calculated.

Senator Howard M. Metzenbaum (D-Ohio), sponsor of the Senate version of the 1988 amendments (S. 2167) and a longtime Committee advocate of energy conservation, noted in his introductory statement that fluorescent lighting accounted for about 40 percent of the electricity used by the commercial sector. Senator Metzenbaum, chairman of the Committee's Subcommittee on Energy Regulation and Conservation, also discussed the bill's importance to the Nation's energy security:

> This Nation continues to face a chronic energy crisis, and it needs a comprehensive energy policy to respond to this crisis. Although there is often little agreement here in the Senate on what such a policy should be, I believe most of my colleagues agree that conservation is an essential component of that policy.

NUCLEAR ENERGY DEVELOPMENT

The Senate reorganization of early 1977 consolidated jurisdiction over most energy issues under the Committee on Interior and Insular Affairs, which was renamed the Committee on Energy and Natural Resources. As part of those sweeping changes, the Joint Commitee on Atomic Energy (JCAE) was abolished and its responsbilitity for nuclear energy development shifted to the new Energy Committee. The Commmttee ever since has assumed a leadership role in assuring future availability and safety of nuclear energy, tackling such key issues as nuclear waste, nuclear accident liability, uranium supply, and advanced reactor research.

Nuclear waste disposal—a longstanding obstacle to public acceptance of nuclear power—has been the subject of four major legislative efforts by the Committee, resulting in two laws on low-level radioactive waste and two more on spent nuclear fuel and high-level waste. Extension of the Price-Anderson Act, which guarantees nuclear accident compensation to the public and limits nuclear industry liability, is one of the Committee's most recent nuclear achievements. The Committee has also taken on the complex problems facing the Naiton's uranium supply and enrichment capacity, the licensing of new nuclear plants, and numerous related nuclear issues.

Uranium Supply and Enrichment

One of the first major nuclear-related issues addressed by the new Energy and Natural Resources Committee was the hazard posed by huge, unmanaged piles of uranium milling residue, or tailings, resulting from Federal uranium contracts. Few disposal requirements had been placed on mill operators when the tailings were generated, but it later became clear that radon gas emanating from the piles, as well groundwater contamination, could endanger the public. The Committee determined that the cleanup or stabilization of uranium tailings at closed mill sites should be a Federal responsibility, leading to enactment of the Uranium Mill Tailings Radiation Control Act of 1978 (UMRTA, P.L. 95-604, 92 Stat. 3021).

The Carter Administration had originally proposed that States pay 25 percent of the cleanup costs, but the Committee insisted that the Federal Government pay it all. "Why shouldn't the Federal Government pay for the whole thing?" said Sen. Pete V. Domenici during Committee markup. "This was the Federal Government's responsibility in the first place." In the final bill, passed Oct. 25, 1978, the House and Senate compromised at 10 percent State cost-sharing.

Under the legislation, the Department of Energy (DOE) was required to reach agreements with States for carrying out remedial action at about two dozen abandoned uranium mill tailings disposal sites, involving more than 25 million tons of material. The Nuclear Regulatory Commission (NRC), in cooperation with the Environmental Protection Agency (EPA), is responsible for disposal standards. The program was originally expected to cost about $200 million, but DOE calculations for Fiscal Year 1989 indicate the total cost will reach nearly $1 billion.

DOE's Office of Remedial Action and Waste Technology charged with implementing the program and by Fiscal Year 1987 had reached cleanup agreements with all States involved. Of the 24 sites to be cleaned up, remedial action had been completed at two by the end of 1986 and was proceeding at six others. Engineering work was underway at nearly all the remaining sites.

By the mid-1980s, however, it became clear to the Committee that many more mill tailings sites, beyond the two dozen under UMTRCA, needed Federal cleanup assistance. The Committee focused on another two dozen sites that had still been operating at enactment of UMTRCA and contained substantial proportions of mill tailings generated under Federal contracts. Legislation reported by the Committee Nov. 4, 1987, would establish a mill tailings cleanup fund for such sites, with approximately equal contributions from mill owners, the Federal Government, and nuclear utilities (S. 1846, S. Rpt. 100–214). The Committee report noted:

> Cost-sharing between the site owners and those parties that have benefited most directly from uranium production—the Federal Government and the nuclear utilities—is an equitable approach to the problem of reclamation of uranium mill tailings. In order to establish the Federal Government's contribution to this effort, the fraction of the mill tailings generated as a result of purchases made by the Federal Government must be ascertained. On April 10, 1986, and again on March 9, 1987, DOE testified to the Subcommittee on Energy Research and Development that the Federal Government contributed to the generation of approximately 30 percent of the total tailings at several of the active sites. It therefore is equitable that the Government contribute to approximately 30 percent of the reclamation costs.

The proposed Uranium Revitalization, Tailings Reclamation and Enrichment Act, approved by the Senate March 30, 1988, as S. 2097, also dealt with several other difficult uranium issues, including problems in DOE's uranium enrichment program and growing uranium imports. Chairman J. Bennett Johnston (D., LA), in calling for enactment of the legislation and an amendment on uranium imports, described it as crucial for the Nation's energy security:

> This bill, along with amendment 1465, comprises a package that addresses the issues in the front end of the do-

> mestic nuclear fuel cycle in a comprehensive way. Enactment of this legislation is critical to maintaining an efficient domestic system to supply fuel to the reactors that in 1987 produced 17 percent of our electricity.
>
> This legislation is also critical to the role of the United States as a credible supplier of enriched nuclear fuel. The world market for such fuel is now worth approximately $2.5 billion annually and will continue to rise as more nuclear powerplants come on line around the world.

Committee Ranking Republican James A. McClure of Idaho also took the floor to forcefully urge enactment of the uranium bill:

> Mr. President, the availability of competitive domestic uranium supplies for nuclear electric power generation is critical to the provision of reliable electric supplies to American consumers. Today the Senate considers legislation to revitalize domestic uranium production and its associated enrichment industries.
>
> Mr. President, I am pleased to join my colleagues in support of S. 2097 and amendment number 1465, which address several as-yet-unresolved issues currently plaguing our uranium fuel cycle. Amendment 1465 is the text of title I of S. 1846, as reported by the Committee on Energy and Natural Resources.
>
> Specifically, the bill and amendment together, as a package, would revitalize a severely depressed domestic uranium mining industry, would assign appropriate funding responsibilities for cleanup of active uranium mill tailing sites, and would restructure the Department of Energy's uranium enrichment enterprise in order for it to be able to function in a more businesslike and competitive manner.

The uranium enrichment provisions of the bill would transform DOE's uranium enrichment program, which has lost much of its market in recent years to foreign competitors, into a government corporation—able to set competitive rates and respond quickly to changes in the market for enriched nuclear fuel (required by most commercial reactors throughout the world). Financial questions about the program's unrecovered costs from previous years would be resolved, in order to establish the new enterprise on a firm financial footing. As Senator McClure explained on the floor:

> The program no longer possesses the necessary flexibility to adjust to changing international market conditions. The present situation must change. The legislation before us provides the necessary flexibility to reverse recent trends and enable the United States' enrichment services to once again be competitive. I am confident that if the restructuring which is provided for by S. 2097 can be facilitated, then the United States can reestablish itself as the world's principal supplier of enrichment services.

Nuclear Waste Disposal

Recognizing that safe, environmentally sound procedures for disposing of radioactive waste were necessary to maintain the Nation's nuclear energy option, the Committee has consistently taken the lead on the issue. The Committee's determination to solve the problem led to enactment of legislation requiring development of State and Federal nuclear waste disposal systems. As a result, expansion of the Nation's nuclear power capacity can take place when it is needed, substantially enhancing U.S. energy security.

Committee activities leading directly to today's nuclear waste disposal system began in the late 1970s. Despite years of Federal studies of what to do with spent nuclear fuel and other high-level radioactive waste, DOE and its predecessor agencies had proved unable to develop a comprehensive plan of action. Spent fuel continued to accumulate at reactor sites, high-level waste from nuclear weapons programs sat in often-leaky underground vats, and three states with disposal sites were growing increasingly angry at taking all the Nation's commercial low-level waste.

To prod DOE into action, the Committee reported a bill (S. 2189) Jan. 3, 1980, giving the Federal Government one year to design and locate a site for a "monitored retrievable storage" (MRS) facility for spent fuel and other high-level waste. The MRS would relieve the pressure on reactor-site storage pools, giving Federal policymakers ample time to determine whether the spent fuel should be reprocessed or placed in permanent repositories. The bill would have required nuclear utilities to pay a one-time storage fee for their spent fuel. Siting of the storage facility would not have required an environmental impact statement (EIS) or have been subject to State vetoes.

Shortly after the Committee acted, the Carter Administration submitted its own proposal to Congress. That legislation would have established a program to build a permanent high-level waste repository in a stable geologic formation by the mid-1990s, after several candidate sites had been evaluated under the National Environmental Policy Act (which requires EISs). To deal with spent nuclear fuel in the meantime, the proposal would have authorized away-from-reactor storage sites.

The Committee's bill went to the Senate floor in late July, passing by a vote of 88–7 on July 30, 1980. Few of the President's key proposals—particularly the permanent geologic disposal plan—were included, although amendments were attached to continue DOE studies of permanent disposal, to provide short-term away-from-reactor (AFR) storage of spent nuclear fuel and to give States a limited veto over disposal facility siting. It was the first nuclear waste legislation ever approved by either chamber.

A House nuclear waste bill (H.R. 8389), passed on November 19, 1980, would have established a tight timetable for a permanent geologic repository and for States to develop regional disposal sites for low-level waste. But Senate and House negotiations over the legislation broke down over the issue of State vetoes of military nuclear waste facilities. Instead, only the low-level waste provisions were enacted, as the Low-Level Radioactive Waste Policy Act of 1980 (P.L. 96–573, 94 Stat. 3347). The law allowed the three States with low-level waste sites to exclude waste from outside their regions after January 1, 1986—meaning other regions would have to open their own sites by then or face a disposal crisis.

The Committee's effort to solve the high-level waste problem resumed in the 97th Congress, with new Chairman James A. McClure (R., ID) taking charge. New legislation (S. 1662) was approved by the Committee on October 21, 1981, setting a timetable for siting and constructing a permanent geologic repository for civilian high-level waste. It also authorized short-term AFR storage and a long-term MRS facility, as well as a fee on nuclear electricity to pay for the disposal program. Procedures for State vetoes (which Congress could override) of proposed sites were also included.

After the bill was approved by the Committee on Environment and Public Works, the two panels filed a joint report (S.Rpt. 97-282). They agreed on provisions authorizing DOE to provide interim storage of up to 2,800 metric tons of spent fuel that could not be safely handled at reactor sites, requiring construction of deep, geologic waste repositories for permanent disposal, requiring DOE to prepare for Congress a site-specific proposal for an MRS facility, establishing a fee of 1 mil per kilowatt-hour on nuclear power to pay for the waste program, and delineating State consultation and veto rights regarding proposed sites within their borders.

The Senate committees' joint report discussed the importance of the legislation:

> The disposal of high-level radioactive waste from nuclear reactors has been a clear need since the beginning of the nuclear weapons program during World War II. The problem of high-level radioactive waste from commercial nuclear powerplants has been essentially a prospective one since the first nuclear powerplant started operation in 1957. Except for a small amount of spent nuclear fuel which has been reprocessed at the nuclear fuel service plant in West Valley, New York, most of the spent fuel from commercial operations thus far has been stored anticipating the advent of a commercial reprocessing industry to extract the useful uranium and plutonium from spent fuel. It was envisioned that the high-level radioactive waste from the spent fuel would be immobilized in a proper solid medium for disposal by one of several possible techniques, with geologic disposal being the option given the greatest attention. While a once-through fuel cycle with the subsequent disposal of spent nuclear fuel has been proposed by some, others believe that the irretrievable disposal of spent nuclear fuel would be premature in light of the current Administration's removal of the ban on commercial reprocessing. At the same time, uncertainties regarding the future availability of commercial reprocessing dictate the need for a system capable of storing and disposing of either high-level nuclear waste or spent fuel. To meet this need, the bill includes provisions for monitored, retrievable storage facilities and for deep, geologic repositories capable of accommodating either high-level nuclear waste or spent fuel.
>
> A need also exists for the establishment of a realistic schedule, with specific deadlines for the development of a repository. By establishing a schedule with dates by which

> time the responsible Federal agencies must complete specified tasks, the Congress can exercise more effective oversight of the progress being made by the various Federal agencies toward this repository and for a specific proposal for a retrievable monitored storage facility. In addition this will focus oversight on a definitive, near-term waste disposal option.

Senator J. Bennett Johnston emphasized in the joint report the need for prompt congressional action on nuclear waste:

> The uncertainty and indecision which has marked the Federal policy for the management of these wastes has been responsible for the reluctance of many members of the public to support increased use of nuclear energy. This reluctance has had national consequences, measured in increased use of irreplaceable fossil fuels.
>
> The time has come for the Federal Government to begin the process of removing the uncertainty of its own programs for nuclear waste management. This uncertainty is less one of uncertainty about technology than it is of uncertainty about whether the Federal Government will ever do anything definitive about nuclear waste management. Until some definitive action is taken, of course, we will continue to store the wastes we have, and continue to generate, at existing nuclear powerplants in an *ad hoc* fashion—more expensively and less safely than almost any other way available to us.

The Committee on Energy and Natural Resources and the Committee on Environment and Public Works agreed in March 1982 on a joint version of the nuclear waste legislation, which was approved by the Senate on April 29, 1982, by a vote of 69-9. Five House committees worked out their own nuclear waste legislation for House approval a month later, and Congress gave final clearance to the historic Nuclear Waste Policy Act of 1982 on December 20 (P.L. 97-425, 96 Stat. 220). Finally, a legal blueprint was in place for safely handling the Nation's high-level radioactive waste.

Under the new law, DOE was required to recommend three sites by January 1, 1985, to be further studied for suitability as the Nation's first permanent, geologic nuclear waste repository. Three sites for a second respository, preferably in a different region and with a different type of rock from the first, were to be recommended four years later. Although actual construction of a second repository would need additional congressional authorization, the possibility of a second disposal site was intended to reduce the chances that one State or region would bear the entire waste-disposal burden. Various other deadlines in the law were designed to allow the first respository to start operating by 1998.

The final site selected for a repository would require a full environmental review under the National Environmental Policy Act (NEPA) and would be subject to State veto, unless overridden by both houses of Congress within 90 days. DOE would have to receive a license from the Nuclear Regulatory Commission to build and operate a repository. The President would determine whether the repository should hold Government high-level waste along with civilian spent nuclear fuel.

Short term, AFR storage would be allowed for reactors that had exhausted all other reasonable alternatives, with a total AFR limit of 1,900 metric tons. DOE was required to report to Congress on the need for an MRS by June 1, 1985, to allow Congress to make the final decision on construction.

The entire program would be covered by payments from nuclear utilities, and, if Federal waste were included in the system, from the Government programs involved. Each utility was required to pay one mill per kilowatt-hour of nuclear electricity generated after enactment, along with a one-time fee to cover all previously generated nuclear waste. A DOE Office of Civilian Radioactive Waste Management was established to implement the program.

Although the Nation's course toward high-level waste disposal appeared set, it became apparent during the next two years that the previous resolution of the low-level waste debate was not working out as planned. States and regions without low-level waste disposal facilities were making little or no progress toward opening them by the 1986 deadline, and the three States with disposal sites were warning that outside access to their facilities would be cut off as scheduled. The Committee realized a potential health and safety problem was brewing and began working with States and interest groups to head it off.

On October 8, 1985, the Committee's Subcommittee on Energy Research and Development, chaired by Senator Pete V. Domenici (R., NM), held a joint hearing on low-level waste with the Committee on Environment and Public Works' Subcommittee on Nuclear Regulation. Chairman Domenici summed up the gravity of the situation:

> On January 1, 1986, most utilities, as well as medical research and industrial concerns, may confront the reality of having nowhere to dispose of low-level waste. In passing this Low-Level Waste Policy Act of 1980, Congress declared that the responsibility for low-level nuclear waste rests with the individual States, and it authorized and encouraged States to enter into regional compacts to provide for the disposal of waste generated within the regions.
>
> It specified that beginning in 1986, congressionally approved regional compacts may prohibit importation of low-level wastes from other States outside the compact region.
>
> To date, not a single new site has been developed, even though several States have launched extensive efforts in establishing waste management programs and potential sites. It seems that the "not in my backyard" syndrome has prevailed and has kept progress at a crawl.

Chairman McClure reiterated those points in his statement at the proceeding:

> It is likely that, if the present impasse is not resolved, this Country may be faced with a crisis very similar to—or perhaps worse than—the one it faced in 1979.

> Our Country cannot afford such a crisis. The people whose lives and lifestyles rely on the services provided by utilities, hospitals, universities, research centers, and many other industries that generate quantities of low-level waste should not have to deal with such a disruption.
>
> I have faith that this Congress can defuse this time bomb. We have before us today two bills—S. 1517 and S. 1578—that offer a framework within which to resolve the present difficulties. The proposals represent a year's worth of effort on the part of the waste generators, the governors of the sited States, the non-sited compact regions and States, and the public at large, to craft a realistic and workable solution to the current dilemma.
>
> I look forward to the testimony we will be receiving today. With your input and our diligence, it is my hope that this Congress will never again have to face this issue, and that by the year 1993, we will have a low-level waste disposal network in place that is balanced and equitable for all concerned parties.

The Committee approved S. 1517 on November 13, 1985, by a vote of 16–2. After the Environment and Public Works Committee passed its low-level waste bill (S. 1578) three weeks later, the two committees began intense negotiations on a compromise floor vehicle. Members of the Energy and Natural Resources Committee were particularly adamant that interim deadlines for States to achieve progress toward opening new disposal facilities be as strict as possible. Otherwise, they noted, the cycle of delay that followed enactment of the original low-level waste law could be repeated.

Those concerns were addressed in the final bill, passed by Congress December 19, 1985. The Low-Level Radioactive Waste Policy Amendments Act of 1985 (P.L. 99–240, 99 Stat. 1842) established a series of deadlines, or "milestones," for achieving various steps toward opening new disposal sites. As long as States and regions without waste sites comply with the milestones, their commercial waste generators can continue sending waste to the three existing facilities—until the final deadline of December 31, 1992, when States or regions will be responsible for disposing of their own waste.

During the 7-year transition period, the three States with currently operating waste sites (Nevada, South Carolina, and Washington) can impose escalating disposal surcharges on waste from outside their regions. Those charges can be doubled and quadrupled to States that miss the milestones. Also during that period, nuclear power plants must reduce their waste volumes by about a third, to prevent the annual flow of waste to the three existing disposal sites from increasing. Seven regional disposal compacts were approved as part of the law's enactment.

While the Committee wrestled with the low-level waste issue, controversy began to grow over DOE's implementation of the high-level waste program under the Nuclear Waste Policy Act (NEPA). Potential candidate States for the first permanent repository, located primarily in the West, charged that site screening was not being carried out properly and that environmental hazards were being ignored. Then, almost immediately after enactment of the low-level waste amendments, DOE touched off a firestorm of protest with its January 16, 1986, selection of 12 potential candidate sites for the second repository, to be located in the East or Upper Midwest.

As lawmakers from the second-repository States clamored to limit the program to a single, Western repository, leaders of the Energy and Natural Resources Committee—particularly Chairman McClure and Ranking Democrat Johnston—fought to hold the 1982 compromise together and keep the program moving forward. But the Administration undercut their efforts just a few months later, on May 28, 1986, by placing the second repository project indefinitely on hold. Western lawmakers, angered that the 1982 regional compromise had been unilaterally abandoned, quickly moved to freeze the high-level waste program's funding to prevent site excavation from beginning.

With the waste program politically paralyzed, the Committee held numerous hearings in 1987 on the program's problems and the Administration's suspension of the search for the second repository. Chairman Johnston was determined to get the waste disposal effort back in operation, and expressed his deep concern at a Committee hearing on July 16, 1987:

> Let me state at the outset that my preferred course of action would be to stick with the process laid out in the 1982 Act. It is not a perfect law, but it is a good law. And it was passed after many years of hard work. A substantial amount of work has gone on since the Act was passed and significant resources have been expended. I believe that the hearings we have held in the Committee have provided convincing evidence that there is no technical reason to halt the program at this point.
>
> Unfortunately, I have become convinced that determined attempts will be made to amend the Nuclear Waste Policy Act in this Congress. Some of the proposals I have seen would, in effect, repeal the Act and send us back to where we were in the mid-1970s when plans for a nuclear waste management policy were first being seriously studied. I think this would be a tragic mistake and a waste of the hard work and substantial ratepayer financial support that has gone into this program.
>
> I hope that we will not take the path of least resistance and close down the program in order to study the problem for the next decade or longer. I hope that instead we can agree on solutions that will move us toward the goals of permanent disposal that were laid out in the 1982 Act.

Legislation by Senators Johnston and McClure (S. 1481) to break the nuclear waste logjam was approved by a Committee vote of 17-2 on July 29, 1987, as part of its budget reconciliation package. The Committee-approved plan called for DOE to choose a single site for detailed study, or "characterization," by 1989, rather than characterizing three sites simultaneously, as required under NWPA. The search for a second repository would be suspended, and construction of a MRS would be authorized, although the search for a site would have to start over again. To encourage States to accept nuclear waste facilities, the proposal would have allowed payments of $50 million per year to a State hosting an MRS and $100 million per year to a State with a permanent waste repository.

The Committee-approved language became the basis for a major restructuring of the high-level nuclear waste disposal program included in the Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203, 101 Stat. 1330), approved by Congress in December 1987. The new law succeeded in restarting the disposal effort by directing DOE to begin characterization of a site at Yucca Mountain, Nevada, for the Nation's first geologic nuclear waste repository. As in the Committee version, construction of an MRS is authorized after a new site search, but the search must wait until a special study commission issues a report on the facility. If Nevada signs an agreement to host a waste repository, it will receive up to $20 million in annual payments, while a State accepting an MRS can get up to $10 million a year. NWPA's second repository program was eliminated.

NUCLEAR ACCIDENT LIABILITY AND COMPENSATION

Federal nuclear activities and commercial nuclear power plants pose a slight but undeniable risk of a potentially catastrophic accident. Since receiving jurisdiction over nuclear energy development in 1977, the Committee has consistently found those low-probability risks to be far outweighed by the benefits of secure and relatively clean nuclear energy. As a result, the Committee pushed hard in the 99th and 100th Congresses for renewal of the Price-Anderson Act, which provides for compensation to the public for a nuclear accident and establishes a stable liability framework for the nuclear industry. Without such stability, industrial firms and electric utilities could not undertake nuclear projects.

As amended in 1975, the Price-Anderson Act—section 170 of the Atomic Energy Act of 1954 (P.L. 85-256, 7 Stat. 576)—allowed DOE to indemnify firms hired to perform nuclear-related work for the Government, such as operating research and production reactors and laboratories. Liability for accidents caused by such contractors was limited to $500 million, with DOE paying any assessed damages to the public. Each commercial nuclear reactor was required to contribute up to $5 million to pay damages to the public caused by an accident at any nuclear power plant—if the damages exceeded the maximum available insurance. Those sources of accident compensation totaled about $700 million.

The Committee worked diligently to extend the Act and increase accident protection for the public as the law's August 1, 1987, expiration date approached. A general consensus was reached in the 99th Congress that the liability limits in the law should be increased nearly tenfold—to about $7 billion per accident. The Committee reported an extension bill (S. 1225) and reached a tentative agreement with the Committee on Environment and Public Works on a floor vehicle, but time ran out in the second session before floor action could begin.

As the 100th Congress got underway, the Committee redoubled its efforts to extend the crucial law. Several hearings and markup sessions were held on a bill (S. 748) to extend DOE's indemnification authority (the portion of Price-Anderson under the Committee's jurisdiction), and it was approved 17-2 on May 20, 1987. Most of the Committee debate concerned whether DOE should be authorized to penalize indemnified nuclear contractors for safety violations. The bill, as reported, allowed penalties of up to $100,000 per day for violations of DOE safety rules, plus potential criminal penalties. As did the legislation from the 99th Congress, the bill called for a tenfold increase in indemnified contractors' liability limits (obligating the Government to provide accident compensation of up to about $7 billion).

The Price-Anderson Act's liability provisions for commerical reactors fell under the jurisdiction of the Committee on Environment and Public Works, which approved an extension bill on August 4, 1987. But several provisions of that bill, particularly a plan to pay damages exceeding the $7 billion liability limit from the Federal judgment fund, drew strong opposition from the Committee on Energy and Natural Resources and from the Administration. Negotiations between the two committees resulted in an agreement to take up the House-passed extension bill (H.R. 1414) and amend it with various provisions from the Senate bills.

A key amendment was the Committee's language on penalties for DOE nuclear contractors. Chairman Johnston explained the background of the provision during floor debate March 16, 1988:

> In the Committee on Energy and Natural Resources, which has jurisdiction over the DOE contractors, there was a raging debate over whether or not contractors should be criminally liable in the case of gross negligence, should be civilly liable in the case of gross negligence, should be assessed fines in the case of gross negligence, or whether there should be a right of subrogation by the Government against those contractors.
>
> We went round and round, Mr. President, in the Committee on Energy and Natural Resources, on what were the appropriate standards. On the one hand we wanted to make it difficult enough so that, in the case of gross negligence, contractors would exercise the highest degree of care.
>
> On the other hand, we wanted to balance that with the fact that if penalties were made too severe, if liability was made too great, that we would, in effect, drive out of the business the best and most responsible of the contractors, leaving, in effect, fly-by-night people to run the most sensitive, most important national defense facilities in the whole country.
>
> So what we came up with, Mr. President, is the amendment now pending. It provides for civil, monetary penalties for violations of Department of Energy regulations and those penalties are set at a maximum of $100,000 per violation, or for a violation that extends beyond 1 day, it can be $100,000 per day.

The Committee's contractor penalty provision was subsequently adopted by the Senate and accepted by the House. The Environment Committee's judgment fund provision was not included.

Also of great concern to the Committee was the long-term stability of the Price-Anderson nuclear liability system—and particularly the potential disruption that was being risked by Congress' missing the August 1, 1987, extension deadline. The Committee, therefore, persuaded the Senate that the Act should be extended for 20 years, instead of the 10 years provided by previous extensions (in 1965 and 1975).

In the final bill, cleared for the President's signature on August 5, 1988, the length of the Price-Anderson extension was set at 15 years, and the contractor penalty provisions were included. As the Committee's years of work on the bill came to an end, Senator Domenici praised the law for "fulfilling its intended purpose of providing prompt financial protection to the public and removing a deterrent to private-sector participation in the nuclear energy field."

OUTER CONTINENTAL SHELF LEASING PROGRAM

On July 2, 1987, the Department of Interior's Five-Year Offshore Oil and Gas Leasing Program for July 1987 through July 1992 was approved. Under the plan, a total of 38 sales are scheduled in 21 of the 26 OCS planning areas. These are: (1) five in the Atlantic region; (2) twelve in the Gulf of Mexico region; (3) six in the Pacific region; (4) twelve in the Alaska region; and (5) three supplemental sales. Leasing will be deferred on some 213 million acres.

The OCS leasing program has been highly controversial in recent years, particularly with respect to leasing off the California and Florida coasts and in the Georges Bank area off New England. The FY 1985 Interior Appropriations bill included leasing moratoria amendments. The FY 1987 Interior Appropriations bill prohibited initiation of steps leading to leasing in the Georges Bank area.

The Five-Year Plan essentially incorporated the California Draft Proposed Final Program, allowing 13 percent of the area previously under moratoria to be considered for inclusion in individual lease sales. The plan also calls for buffer zones offshore coastal areas of California and in deep water equivalent to approximately 75 percent of the California OCS planning areas.

The Act Making Appropriations for the Department of the Interior and Related Agencies in FY 1989 (Pub. L. No. 100–466) imposed moratoria on OCS leasing and most permitting and exploration activities in certain areas offshore California and Florida and in the Georges Bank area off New England. Under the Five-Year Plan, lease sales were scheduled for the Eastern Gulf of Mexico in November 1988; Northern California in February 1989; and the North Atlantic in February 1989.

The Committee will continue to engage in oversight activities with respect to OCS leasing.

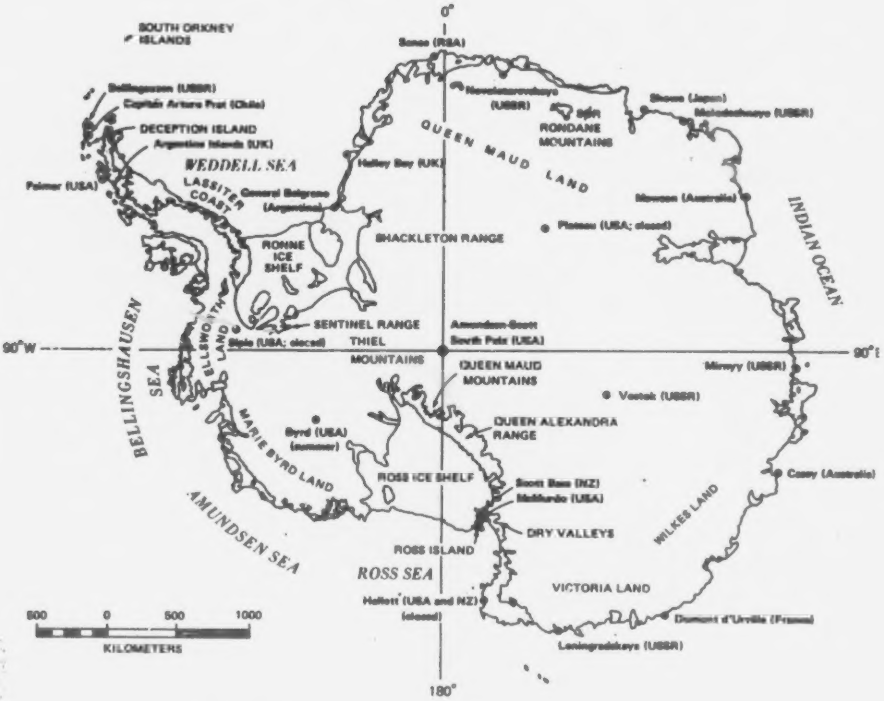
ANTARCTICA

The Committee has jurisdiction over certain issues concerning Antarctica. Because of the Committee's jurisdiction over energy and minerals, it has been especially interested in those aspects of Antarctic issues. In 1979, the committee held hearings on research and international scientific cooperation in the Antarctic (Publication 96–21).

The Antarctic Treaty was signed on December 1, 1959 and entered into force on June 23, 1961, after ratification by twelve countries: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the United States. Since then, twenty additional states have approved the Treaty.

Under the Treaty, negotiations on the Convention on the Regulation of Antarctic Mineral Resources Activities began in June 1982, and the Convention was adopted by consensus of the 20 Antarctic Treaty Consultative parties on June 2, 1988. The Convention is open for signature for one year beginning November 25, 1988. The United States signed the Convention on November 30, 1988. The Senate must give its advice and consent to the Convention, and Congress must pass legislation in order for the Convention to be implemented in the United States.

It is likely that the Committee will conduct oversight hearings on the Convention and consider legislation that may be introduced to implement the Convention.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Palmer (USA)
LASSITER COAST
General Belgrano (Argentina)
Halley Bay (UK)
Novolazarevskaya (USSR)
Sør
RONDANE MOUNTAINS
QUEEN MAUD LAND
Syowa (Japan)
Molodezhnaya (USSR)
Mawson (Australia)
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Plateau (USA; closed)
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RONNE ICE SHELF
SENTINEL RANGE
Amundsen-Scott South Pole (USA)
Siple (USA; closed)
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QUEEN MAUD MOUNTAINS
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Vostok (USSR)
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Byrd (USA) (summer)
MARIE BYRD LAND
ROSS ICE SHELF
Scott Base (NZ)
McMurdo (USA)
Casey (Australia)
AMUNDSEN SEA
DRY VALLEYS
WILKES LAND
ROSS ISLAND
ROSS SEA
VICTORIA LAND
Hallett (USA and NZ) (closed)
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ANTARCTICA: selected stations and physical features.

UNITED STATES OF AMERICA
ANTARCTIC PROGRAM

APPENDIXES

Henry M. Jackson
1912 - 1983

United States Representative, 1941-1953
United States Senator, 1953-1983

APPENDIX A.—TRIBUTE TO SENATOR HENRY M. "SCOOP" JACKSON

Henry Martin Jackson was born in Everett, Washington, on May 31, 1912, and died there on September 1, 1983, at the age of 71. At the time of his death, he was the senior United States Senator from the State of Washington and had served in Congress for nearly 43 years. He was known affectionately as "Scoop," a name he acquired because one of his sisters thought he resembled a comic strip character of this name who managed to get others to do work for him.

Senator Jackson was first elected to the House of Representatives in 1940 and served there from January 3, 1941, until January 3, 1953, when he began his Senate service. While a Member of the House of Representatives; he first displayed his interest in energy and natural resources issues and played an influential role in areas such as public lands, reclamation, and hydroelectric power development. In spite of the Eisenhower landslide of 1952, he was elected to the Senate as a Democrat and served there from January 3, 1953, until his death. His combined House and Senate service of 42 years and 8 months places him 15th among the 172 individuals who have served in Congress for 30 or more years.[1]

During more than 30 years in the Senate, Senator Jackson was deeply involved in the major issues of American political life, from the drama of the Army-McCarthy hearings in 1954 to the fight for Soviet Jewry in the 1970s. He became one of the foremost authorities on national security as well as energy, environmental, and natural resources issues. He served with distinction and prestige on the Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs, during virtually his entire Senate career. Moreover, he served as Chairman of the Committee for some 18 years, from February 25, 1963, until January 3, 1981, longer than any other Chairman of the Committee. In that capacity, he played a leading role in the conservation legislation of the 1960s and the energy legislation of the 1970s. He was one of the first to recognize the dangers of excessive reliance on foreign energy sources and was an early advocate of programs to develop domestic energy resources, as well as programs to conserve energy.

Senator Jackson had the ability to force Congress to face the future. He initiated the first congressional hearings on the importance of energy conservation. In 1971, during his chairmanship, the Senate authorized the National Fuels and Energy Policy Study that he initiated along with Senator Jennings Randolph, Chairman of the Senate Public Works Committee. The resolution authorized the then-Senate Interior and Insular Affairs Committee and ex-officio members of the Committees on Commerce and Public Works and the Joint Committee on Atomic Energy to make a comprehensive study of programs and policies required to meet national energy needs. Subsequently, ex-officio members of other committees were included. The hearings, staff studies, and other publications of the Study represented the most comprehensive compilation of information and commentary on energy issues ever assembled.

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[1] To put this achievement in perspective, 11,180 individuals have served in the Congress since 1789. Of these, 9,367 have served only in the House; 1,123 have served only in the Senate, and 590 (including Senator Jackson) have served in both Houses.

During the 93d Congress, in 1973, 53 days of hearings were conducted as part of the Study to review over 20 different major energy policy issues. The Study was an effective, coordinating mechanism, and served a useful educational function for Congress and the American public, thanks to the efforts of Senator Jackson. It enabled Congress to take the initiative in enacting major energy legislation such as the Emergency Energy Petroleum Allocation Act in 1973 and the Energy Research and Development Act in 1975. Moreover, Senator Jackson led the effort to create a cabinet-level Department of Energy, which was established in 1977.

Beginning in the 95th Congress in 1977, Senator Jackson introduced a series of conservation measures as part of what became the National Energy Conservation Policy Act of 1978. This Act established a national energy policy designed to maximize domestic production of energy and provide for strategic storage reserves of oil and petroleum products. It provided for utility conservation programs for residences, weatherization grants for low-income families, loan programs to homeowners and builders to purchase and install solar heating and cooling equipment, and energy efficiency standards and labelling for major home appliances.

As a leader in environmental protection, Senator Jackson led successful efforts to enact such landmark legislation as the National Environmental Policy Act of 1969, which required for the first time that an environmental impact statement be filed before a Federal project could begin, established as national policy the protection of our environment, authorized studies on natural resources, and created a Council on Environmental Quality to advise the President on environmental matters.

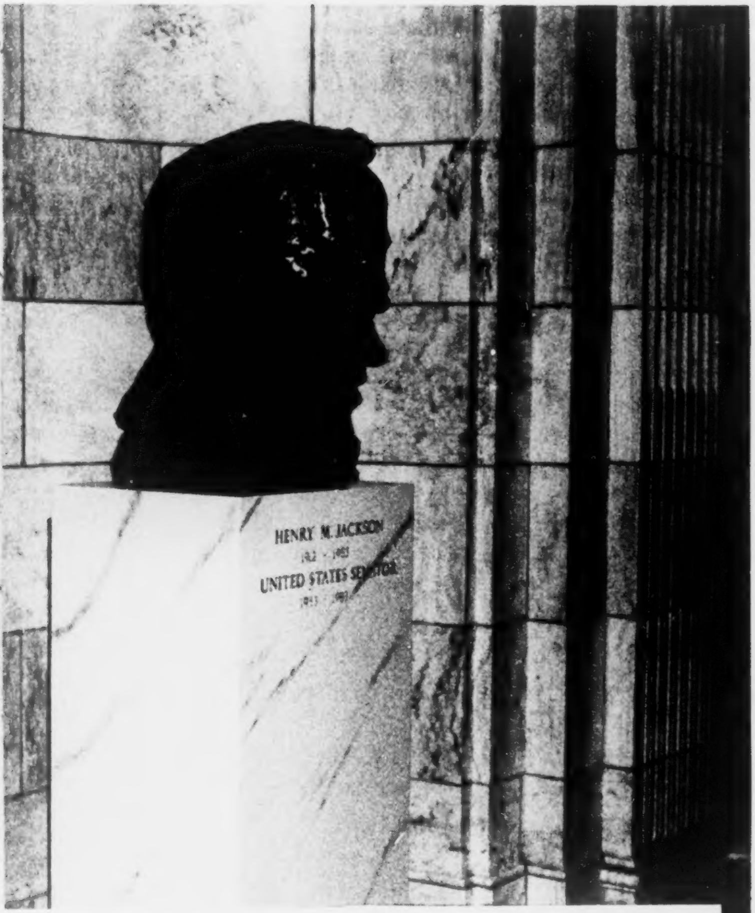
Senator Jackson was one of the major pivotal figures in the history of conservation and environmental awareness. He was the driving force behind the enactment of an unprecedented series of measures which preserved for all Americans millions of acres of parks, wild and scenic rivers, and wilderness areas. The Wilderness Act, the Land and Water Conservation Fund Act, the National Trails System Act, the Wild and Scenic Rivers Act, the Redwood National Park Act, the Federal Lands for Parks and Recreation Act, the Youth Conservation Corps Act, the Federal Land Policy and Management Act, the Surface Mining and Reclamation Act, the Outer Continental Shelf Lands Act Amendments, and the establishment of the North Cascade National Park (posthumously dedicated to him) all bear the mark of Scoop Jackson's leadership and commitment to the protection and wise management of America's natural resources and environmental wealth.

In addition, Senator Jackson was instrumental in the passage of legislation that gave Hawaii and Alaska statehood in 1958. Moreover, he was a key figure in the developments that led to the approval of the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation Act, and the Trans-Alaska Pipeline System Act of 1973.

Senator Jackson has been recognized in countless ways for his dedication and service to the Nation. Among the awards he received were the Medal of the American Scenic and Historic Preservation Society, the National Wildlife Federation's Legislator of the Year Award, the John Muir Award of the Sierra Club, the Baruch Conservation Award, and in 1982, the Energy Statesman of the Decade Award. He was also recognized posthumously with the establishment of the Henry M. Jackson Foundation and the Henry M. Jackson Foundation for Military Medicine. In addition, the U.S. Navy launched the USS *Henry M. Jackson* Trident submarine in October 1983; and in June 1984 President Reagan awarded him the coveted Medal of Freedom because:

> He helped build the community of democracies and worked tirelessly to keep it vigorous and secure. He pioneered in the preservation of the Nation's natural heritage, and he embodied integrity and decency in the profession of politics. For those who make freedom their cause, Henry Jackson will always inspire honor, courage, and hope.

Thus, Senator Henry Jackson's contributions to our country, as well as the energy and natural resources policies he helped to establish, will continue to provide innumerable benefits to the American people for decades to come. His dedication to the work of this Committee and the Senate and his many legislative achievements will long be remembered and appreciated.


HENRY M. JACKSON
UNITED STATES SENATOR

Portrait Bust of
The Honorable Henry M. Jackson
United States Senator, 1953-1983

Dedicated
on Thursday, November 19, 1987, at 12:00 noon
Lobby, Northwest Corner, Second Floor
Russell Senate Office Building

APPENDIX B.—MEMBERS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES AND PREDECESSOR COMMITTEES, 14TH–100TH CONGRESSES (1816–PRESENT)

COMMITTEE ON PUBLIC LANDS

14th Congress (1816–1817)

Majority: Democrat-Republican

Minority: Federalist

JEREMIAH MORROW, Ohio, *Chairman*

JAMES BROWN, Louisiana
WALLER TAYLOR, Indiana

JAMES NOBLE, Indiana
ROBERT H. GOLDSBOROUGH, Maryland

15th Congress (1817–1819)

Majority: Democrat-Republican

Minority: Federalist

JEREMIAH MORROW, Ohio, *Chairman*

JAMES FISK, Vermont [1]
WALLER TAYLOR, Indiana
THOMAS H. WILLIAMS, Mississippi
MAHLON DICKERSON, New Jersey [2]
HENRY JOHNSON, Louisiana [3]

WILLIAM HUNTER, Rhode Island
NICHOLAS VAN DYKE, Delaware

16th Congress (1819–1821)

Majority: Democrat-Republican

Minority: Federalist

THOMAS H. WILLIAMS, Mississippi, *Chairman* [1]

WALLER TAYLOR, Indiana
JESSE B. THOMAS, Illinois [4]
WALTER LOWRIE, Pennsylvania
JOHN EATON, Tennessee [3]

WILLIAM HUNTER, Rhode Island
NICHOLAS VAN DYKE, Delaware

17th Congress (1821–1823)

Majority: Democrat-Republican

Minority: Federalist

JESSE B. THOMAS, Illinois, *Chairman*

WALTER LOWRIE, Pennsylvania
JOHN H. EATON, Tennessee
THOMAS H. BENTON, Missouri

NICHOLAS VAN DYKE, Delaware

18th Congress (1823-1825)

Majority: Democrat-Republican

Minority: Federalist

DAVID BARTON, Missouri, *Chairman*

JESSE B. THOMAS, Illinois
THOMAS H. WILLIAMS, Mississippi [1]
JOHN H. EATON, Tennessee
WALTER LOWRIE, Pennsylvania [1]
WILLIAM R. KING, Alabama [3]

NICHOLAS VAN DYKE, Delaware

19th Congress (1825-1827)

Majority: Democrat

DAVID BARTON, Missouri, *Chairman*

THOMAS B. REED, Mississippi [3]
JESSE B. THOMAS, Illinois
JOHN H. EATON, Tennessee
WILLIAM R. KING, Alabama

20th Congress (1827-1829)

Majority: Democrat

DAVID BARTON, Missouri, *Chairman*

WILLIAM R. KING, Alabama
JOHN H. EATON, Tennessee
POWHATAN ELLIS, Mississippi
ELIAS K. KANE, Illinois

21st Congress (1829-1831)

Majority: Democrat

Minority: National Republican

DAVID BARTON, Missouri (Minority), *Chairman*

EDWARD LIVINGSTON, Louisiana [1]
ELIAS K. KANE, Illinois
POWHATAN ELLIS, Mississippi
JOHN McKINLEY, Alabama (Jacksonian Democrat)

PELEG SPRAGUE, Maine [3]

22d Congress (1831-1833)

Majority: Democrat

Minority: National Republican

WILLIAM R. KING, Alabama, *Chairman* [1]

POWHATAN ELLIS, Mississippi [1]
JOHN M. ROBINSON, Illinois [1]
JOHN TIPTON, Indiana [2]
ELIAS K. KANE, Illinois [4]
GABRIEL MOORE, Alabama (Jacksonian Democrat)

JOHN HOLMES, Maine
ROBERT HANNA, Indiana (Whig) [1]
SAMUEL PRENTISS, Vermont (Whig) [3]

23d Congress (1833-1835)

Unknown Majority

Unknown Minority

GEORGE POINDEXTER, Mississippi (Whig), *Chairman*

GABRIEL MOORE, Alabama (Jacksonian Democrat)
SAMUEL PRENTISS, Vermont (Whig)
SAMUEL McKEAN, Pennsylvania (Democrat)
HENRY CLAY, Kentucky (Whig)

24th Congress (1835-1837)

Majority: Democrat

Minority: Whig

ROBERT J. WALKER, Mississippi, *Chairman* [3] [4]

SAMUEL MCKEAN, Pennsylvania [1]
GABRIEL MOORE, Alabama (Jacksonian Democrat)[1]
WILLIAM R. KING, Alabama [3]
JOHN RUGGLES, Maine [3]
WILLIAM S. FULTON, Arizona [3]

THOMAS EWING, Ohio
SAMUEL PRENTISS, Vermont [1]
JOHN J. CRITTENDEN, Kentucky

25th Congress (1837-1839)

Majority: Democrat

Minority: Whig

ROBERT J. WALKER, Mississippi, *Chairman*

WILLIAM S. FULTON, Arkansas
CLEMENT C. CLAY, Alabama
WILLIAM H. ROANE [1]
WILLIAM ALLEN, Ohio

SAMUEL PRENTISS, Vermont

26th Congress (1839-1841)

Majority: Democrat

Minority: Whig

ROBERT J. WALKER, Mississippi, *Chairman*

WILLIAM S. FULTON, Arkansas
CLEMENT C. CLAY, Alabama
JOHN NORVELL, Michigan

SAMUEL PRENTISS, Vermont

27th Congress (1841-1843)

Majority: Whig

Minority: Democrat

OLIVER H. SMITH, Indiana, *Chairman*

ISAAC C. BATES, Massachusetts [1]
SAMUEL PRENTISS, Vermont [1]
JABEZ W. HUNTINGTON, Connecticut [3]
CHARLES M. CONRAD, Louisiana

NATHANIEL P. TALLMADGE, New York
ROBERT J. WALKER, Mississippi

28th Congress (1843-1845)

Majority: Whig

Minority: Democrat

WILLIAM WOODBRIDGE, Mississippi (Whig and Democrat), *Chairman*

SPENCER JARNAGIN, Tennessee
JAMES T. MOREHEAD, Kentucky
SAMUEL S. PHELPS, Vermont [3]

NATHANIEL P. TALLMADGE, New York [1]
ROBERT J. WALKER, Mississippi

29th Congress (1845-1847)

Majority: Democrat

Minority: Whig

SIDNEY BREESE, Illinois, *Chairman*

JESSE SPEIGHT, Mississippi [1]
CHESTER ASHLEY, Arkansas
JOSEPH W. CHALMERS, Mississippi [1]
JESSE D. BRIGHT, Indiana
WILLIAM WOODBRIDGE, Michigan (Whig and Democrat)

SPENCER JARNAGIN, Tennessee [1]
JAMES T. MOREHEAD, Kentucky [2]
THOMAS CORWIN, Ohio [3]

30th Congress (1847-1849)

Majority: Democrat

Minority: Whig

SIDNEY BREESE, Illinois, *Chairman*

CHESTER ASHLEY, Arkansas
ALPHEUS FELCH, Michigan
SOLON BORLAND, Arkansas

THOMAS CORWIN, Ohio
JOSEPH R. UNDERWOOD, Kentucky

31st Congress (1849-1851)

Majority: Democrat

Minority: Whig

ALPHEUS FELCH, Michigan, *Chairman*

SOLON BORLAND, Arkansas
JAMES SHIELDS, Illinois
SOLON BORLAND, Arkansas
JOHN C. FREMONT, California (Free Soil Democrat)

THOMAS CORWIN, Ohio
TRUMAN SMITH, Connecticut
ROBERT C. WINTHROP, Massachusetts

32d Congress (1851-1853)

Majority: Democrat

Minority: Whig

ALPHEUS FELCH, Michigan, *Chairman*

JAMES SHIELDS, Illinois [1]
SOLON BORLAND, Arkansas [15]
AUGUSTUS C. DODGE, Iowa [3]

TRUMAN SMITH, Connecticut
WILLIE P. MANGUM, North Carolina [2]
JOSEPH R. UNDERWOOD, Kentucky
THOMAS G. PRATT, Maryland

33d Congress (1853-1855)

Majority: Democrat

Minority: Whig

SOLON BORLAND, Arkansas, *Chairman*

AUGUSTUS C. DODGE, Iowa [3,4]
JOHN PETTIT, Indiana [1]
CHARLES E. STUART, Michigan [3]
ROBERT W. JOHNSON, Arkansas [3]
ISAAC P. WALKER, Wisconsin [3]

THOMAS G. PRATT, Maryland
JOHN B. THOMPSON, Kentucky
SOLOMON FOOT, Vermont [3]
JOHN M. CLAYTON, Delaware [3]

34th Congress (1855-1857)

Majority: Democrat

Minority: Whig

CHARLES E. STUART, Michigan, *Chairman*

ROBERT W. JOHNSON, Arkansas
GEORGE E. PUGH, Ohio
STEPHEN R. MALLORY, Florida

SOLOMON FOOT, Vermont
JOHN M. CLAYTON, Delaware [1]
LAFAYETTE S. FOSTER, Connecticut (Republican) [3]

35th Congress (1857-1859)

Majority: Democrat

Minority: Republican

CHARLES E. STUART, Michigan, *Chairman*

ROBERT W. JOHNSON, Arkansas
GEORGE E. PUGH, Ohio
STEPHEN R. MALLORY, Florida [1]
DAVID C. BRODERICK, California [1]
ANDREW JOHNSON, Tennessee

LAFAYETTE S. FOSTER, Connecticut
JAMES HARLAN, Iowa

Third Party
JAMES CHESTNUT, JR., South Carolina (States Rights Democrat) [3]

36th Congress (1859-1861)

Majority: Democrat

Minority: Republican

ROBERT W. JOHNSON, Arkansas, *Chairman*

GEORGE E. PUGH, Ohio
ANDREW JOHNSON, Tennessee
JOSEPH LANE, Oregon [3]
THOMAS BRAGG, North Carolina [3]

LAFAYETTE S. FOSTER, Connecticut [1]
JAMES HARLAN, Iowa
KINSLEY S. BINGHAM, Michigan

Third Party
JAMES CHESTNUT, JR., South Carolina (States Rights Democrat) [1]

37th Congress (1861-1863)

Majority: Republican

Minority: Democrat

JAMES HARLAN, Iowa, *Chairman*

KINSLEY S. BINGHAM, Michigan [1]
DANIEL CLARK, New Hampshire [1]
MORTON S. WILKINSON, Minnesota [1]
SAMUEL C. POMEROY, Kansas
BENJAMIN F. HARDING, Oregon [3]
JOHN S. CARLILE, Virginia (Unionist) [3]

ANDREW JOHNSON, Tennessee [1]
CHARLES B. MITCHEL, Arkansas [1]
THOMAS BRAGG, North Carolina [1]
HENRY M. RICE, Minnesota [3]
JAMES W. NESMITH, Oregon [2]
JOSEPH A. WRIGHT, Indiana [2]
DAVID TURPLE, Indiana [3]

38th Congress (1863-1865)

Majority: Repubican

Minority: Democrat

JAMES HARLAN, Iowa, *Chairman*

DANIEL CLARK, New Hampshire [1]
SAMUEL C. POMEROY, Kansas
JOHN S. CARLILE, Virginia (Unionst)
BENJAMIN F. HARDING, Oregon
ALEXANDER RAMSEY, Minnesota [1]
SOLOMON FOOT, Vermont
WILLIAM M. STEWART, Nevada [3]

THOMAS A. HENDRICKS, Indiana
WILLIAM WRIGHT, New Jersey

39th Congress (1865-1867)

Majority: Republican

Minority: Democrat

JAMES HARLAN, Iowa, *Chairman* [1]

SAMUEL C. POMEROY, Kansas [4]
LOT M. MORRILL, Maine [1]
WILLIAM SPRAGUE, Rhode Island [1]
WILLIAM M. STEWART, Nevada
JOHN A. J. CRESWELL, Maryland [2]
JAMES W. GRIMES, Iowa [2]
IRA HARRIS, New York [3]
HENRY WILSON, Massachusetts [2]
SAMUEL J. KIRKWOOD, Iowa [3]
GEORGE F. EDMUNDS, Vermont [3]
ALEXANDER G. CATTELL, New Jersey [3]

THOMAS A. HENDRICKS, Indiana
WILLIAM WRIGHT, New Jersey [1]

40th Congress (1867-1869)

Majority: Republican

Minority: Democrat

SAMUEL C. POMEROY, Kansas, *Chairman*

WILLIAM M. STEWART, Nevada
GEORGE F. EDMUNDS, Vermont [1]
ALEXANDER G. CATTELL, New Jersey [1]
GEORGE H. WILLIAMS, Oregon (Union Republican)
THOMAS W. TIPTON, Nebraska
THOMAS W. OSBORN, Florida [3]
WILLARD WARNER, Alabama [3]

THOMAS A. HENDRICKS, Indiana

41st Congress (1869-1871)

Majority: Republican

Minority: Democrat

SAMUEL C. POMEROY, Kansas, *Chairman*

GEORGE H. WILLIAMS, Oregon (Union Republican)
THOMAS W. TIPTON, Nebraska
THOMAS W. OSBORN, Florida
WILLARD WARNER, Alabama
WILLIAM SPRAGUE, Rhode Island

EUGENE CASSERLY, California

42d Congress (1871-1873)

Majority: Republican

Minority: Democrat

SAMUEL C. POMEROY, Kansas, *Chairman*

THOMAS W. TIPTON, Nebraska
THOMAS W. OSBORN, Florida
WILLIAM SPRAGUE, Rhode Island
WILLIAM WINDOM, Minnesota
JOHN A. LOGAN, Illinois [1]
WILLIAM M. STEWART, Nevada [2]

EUGENE CASSERLY, California

43d Congress (1873-1875)

Majority: Republican

Minority: Democrat

WILLIAM SPRAGUE, Rhode Island, *Chairman*

WILLIAM WINDOM, Minnesota
WILLIAM M. STEWART, Nevada
DANIEL D. PRATT, Indiana
RICHARD J. OGLESBY, Illinois
BRAINBRIDGE WADLEIGH, New Hampshire [1]
THOMAS W. TIPTON, Nebraska
GEORGE S. BOUTWELL, Massachusetts [3]
JAMES M. HARVEY, Kansas [3]

EUGENE CASSERLY, California [2]
JAMES K. KELLY, Oregon [3]

44th Congress (1875-1877)

Majority: Republican

Minority: Democrat

RICHARD J. OGLESBY, Illinois, *Chairman*

WILLIAM WINDOM, Minnesota
JAMES M. HARVEY, Kansas
GEORGE S. BOUTWELL, Massachusetts [1]
ALGERNON S. PADDOCK, Nebraska
MORGAN C. HAMILTON, Texas

JAMES K. KELLEY, Oregon
JOSEPH E. McDONALD, Indiana
CHARLES W. JONES, Florida

Third Party
NEWTON BOOTH, California (Anti-Monopolist)

45th Congress (1877–1879)

Majority: Republican

Minority: Democrat

RICHARD J. OGLESBY, Illinois, *Chairman*

ALGERNON S. PADDOCK, Nebraska
JEROME B. CHAFFEE, Colorado
PRESTON B. PLUMB, Kansas

JOSEPH E. McDONALD, Indiana
CHARLES W. JONES, Florida
LA FAYETTE GROVER, Oregon
AUGUSTUS H. GARLAND, Arkansas

Third Party
NEWTON BOOTH, California (Anti-Monopolist)

46th Congress (1879–1881)

Majority: Democrat

Minority: Republican

JOSEPH E. McDONALD, Indiana, *Chairman*

CHARLES W. JONES Florida
LA FAYETTE GROVER, Oregon
JOHN R. McPHERSON, New Jersey
JAMES D. WALKER, Arkansas

PRESTON B. PLUMB, Kansas
ALGERNON S. PADDOCK, Nebraska
NATHANIEL P. HILL, Colorado

Third Party
NEWTON BOOTH, California (Anti-Monopolist)

47th Congress (1881–1883)

Majority: Republican

Minority: Democrat

PRESTON B. PLUMB, Kansas, *Chairman*

NATHANIEL P. HILL, Colorado
HENRY W. BLAIR, New Hampshire
CHARLES H. VAN WYCK, Nebraska
JAMES W. McDILL, Iowa

CHARLES W. JONES, Florida
LA FAYETTE GROVER, Oregon
JAMES D. WALKER, Arkansas
JOHN T. MORGAN, Alabama

48th Congress (1883–1885)

Majority: Republican

Minority: Democrat

PRESTON B. PLUMB, Kansas, *Chairman*

NATHANIEL P. HILL, Colorado
HENRY W. BLAIR, New Hampshire
CHARLES H. VAN WYCK, Nebraska
JOSEPH N. DOLPH, Oregon

JAMES D. WALKER, Arkansas
JOHN T. MORGAN, Alabama
JAMES H. SLATER, Oregon
RANDALL L. GIBSON, Louisiana

49th Congress (1885–1887)

Majority: Republican

Minority: Democrat

PRESTON B. PLUMB, Kansas, *Chairman*

HENRY W. BLAIR, New Hampshire
CHARLES H. VAN WYCK, Nebraska
JOSEPH N. DOLPH, Oregon
HENRY M. TELLER, Colorado

JOHN T. MORGAN, Alabama
FRANCIS M. COCKRELL, Missouri
EDWARD C. WALTHALL, Mississippi
JAMES H. BERRY, Arkansas

50th Congress (1887-1889)

Majority: Republican

Minority: Democrat

PRESTON B. PLUMB, Kansas, *Chairman*

HENRY W. BLAIR, New Hampshire
JOSEPH N. DOLPH, Oregon
HENRY M. TELLER, Colorado
ALGERNON S. PADDOCK, Nebraska

JOHN T. MORGAN, Alabama
FRANCIS M. COCKRELL, Missouri
EDWARD C. WALTHALL, Mississippi
JAMES H. BERRY, Arkansas

51st Congress (1889-1891)

Majority: Republican

Minority: Democrat

PRESTON B. PLUMB, Kansas, *Chairman*

HENRY W. BLAIR, New Hampshire [1]
JOSEPH N. DOLPH, Oregon
HENRY M. TELLER, Colorado
ALGERNON S. PADDOCK, Nebraska
JOHN B. ALLEN, Washington [3]
RICHARD F. PETTIGREW, South Dakota [3]

JOHN T. MORGAN, Alabama
EDWARD C. WALTHALL, Mississippi
JAMES H. BERRY, Arkansas
SAMUEL PASCO, Florida

52d Congress (1891-1893)

Majority: Republican

Minority: Democrat

PRESTON B. PLUMB, Kansas, *Chairman* [1]

JOSEPH N. DOLPH, Oregon [4]
HENRY M. TELLER, Colorado
ALGERNON S. PADDOCK, Nebraska
JOHN B. ALLEN, Washington
RICHARD F. PETTIGREW, South Dakota
WILBUR F. SANDERS, Montana [3]
JOSEPH M. CAREY, Wyoming [3]

JOHN T. MORGAN, Alabama
EDWARD C. WALTHALL, Mississisppi
JAMES H. BERRY, Arkansas
SAMUEL PASCO, Florida
EDWARD D. WHITE, Louisiana [3]
WILLIAM F. VILAS, Wisconsin [3]

53d Congress (1893-1895)

Majority: Democrat

Minority: Republican

JAMES H. BERRY, Arkansas, *Chairman*

EDWARD C. WALTHALL, Mississippi [1]
SAMUEL PASCO, Florida
WILLIAM F. VILAS, Wisconsin
JOHN MARTIN, Kansas
ANSELM J. McLAURIN, Mississippi

JOSEPH N. DOLPH, Oregon
RICHARD F. PETTIGREW, South Dakota
JOSEPH M. CAREY, Wyoming
THOMAS C. POWER, Montana
FRED T. DUBOIS, Idaho

Third Party
WILLIAM V. ALLEN, Nebraska (Populist)

54th Congress (1895-1897)

Majority: Republican

Minority: Democrat

FRED T. DUBOIS, Idaho, *Chairman*

RICHARD F. PETTIGREW, South Dakota
HENRY C. HANSBROUGH, North Dakota
JOHN L. WILSON, Washington
THOMAS H. CARTER, Montana
GEORGE W. McBRIDE, Oregon

JAMES H. BERRY, Arkansas
SAMUEL PASCO, Florida
WILLIAM F. VILAS, Wisconsin
BENJAMIN R. TILLMAN, South Carolina

Third Party
WILLIAM V. ALLEN, Nebraska (Populist)

55th Congress (1897-1899)

Majority: Republican

Minority: Democrat

HENRY C. HANSBROUGH, North Dakota, *Chairman*

JOHN L. WILSON, Washington
THOMAS H. CARTER, Montana
GEORGE W. McBRIDE, Oregon
KNUTE NELSON, Minnesota
RICHARD F. PETTIGREW, South Dakota
FRANK J. CANNON, Utah

JAMES H. BERRY, Arkansas
SAMUEL PASCO, Florida [1]
SAMUEL D. McENERY, Louisiana
WILLIAM V. SULLIVAN, Mississippi [3]

Third Party
WILLIAM V. ALLEN, Nebraska (Populist)

56th Congress (1899-1901)

Majority: Republican

Minority: Democrat

HENRY C. HANSBROUGH, North Dakota, *Chairman*

THOMAS H. CARTER, Montana
GEORGE W. McBRIDE, Oregon [1]
KNUTE NELSON, Minnesota
CLARENCE D. CLARK, Wyoming
JOHN KEAN, New Jersey [1]
RICHARD F. PETTIGREW, South Dakota
THOMAS R. BARD, California [3]

JAMES H. BERRY, Arkansas
SAMUEL D. McENERY, Louisiana
WILLIAM V. SULLIVAN, Mississippi

Third Party
HENRY HEITFELD, Idaho (Populist)

57th Congress (1901-1903)

Majority: Republican

Minority: Democrat

HENRY C. HANSBROUGH, North Dakota, *Chairman*

KNUTE NELSON, Minnesota
CLARENCE D. CLARK, Wyoming
THOMAS R. BARD, California
THOMAS KEARNS, Utah
ROBERT J. GAMBLE, South Dakota
JOSEPH R. BURTON, Kansas
CHARLES H. DIETRICH, Nebraska

JAMES H. BERRY, Arkansas
SAMUEL D. McENERY, Louisiana
ANSELM J. McLAURIN, Mississippi
PARIS GIBSON, Montana

Third Party
HENRY HEITFELD, Idaho (Populist)

58th Congress (1903–1905)

Majority: Republican

Minority: Democrat

HENRY C. HANSBROUGH, North Dakota, *Chairman*

KNUTE NELSON, Minnesota
CLARENCE D. CLARK, Wyoming
THOMAS R. BARD, California
THOMAS KEARNS, Utah
ROBERT J. GAMBLE, South Dakota
JOSEPH R. BURTON, Kansas
CHARLES H. DIETRICH, Nebraska
CHARLES W. FULTON, Oregon

JAMES H. BERRY, Arkansas
SAMUEL D. McENERY, Louisiana
ANSELM J. McLAURIN, Mississippi
PARIS GIBSON, Montana
FRED T. DUBOIS, Idaho
FRANCIS G. NEWLANDS, Nevada

59th Congress (1905–1907)

Majority: Republican

Minority: Democrat

HENRY C. HANSBROUGH, North Dakota, *Chairman*

KNUTE NELSON, Minnesota
CLARENCE D. CLARK, Wyoming
ROBERT J. GAMBLE, South Dakota
JOSEPH R. BURTON, Kansas [1]
REED SMOOT, Utah [3]
THOMAS H. CARTER, Montana [3]
FRANK P. FLINT, California [3]
JAMES A. HEMENWAY, Indiana [3]

JAMES H. BERRY, Arkansas
SAMUEL D. McENERY, Louisiana
ANSELM J. McLAURIN, Mississippi
FRED T. DUBOIS, Idaho
FRANCIS G. NEWLANDS, Nevada
THOMAS M. PATTERSON, Colorado [3]

60th Congress (1907–1909)

Majority: Republican

Minority: Democrat

HENRY C. HANSBROUGH, North Dakota, *Chairman*

KNUTE NELSON, Minnesota [4]
CLARENCE D. CLARK, Wyoming
ROBERT J. GAMBLE, South Dakota
CHARLES W. FULTON, Oregon
REED SMOOT, Utah
FRANK P. FLINT, California
WELDON B. HEYBURN, Idaho
JOSEPH M. DIXON, Montana

SAMUEL D. McENERY, Louisiana
ANSELM J. McLAURIN, Mississippi
FRANCIS G. NEWLANDS, Nevada
JEFF DAVIS, Arkansas
ROBERT L. OWEN, Oklahoma
JOHN H. BANKHEAD, Alabama

61st Congress (1909–1911)

Majority: Republican

Minority: Democrat

KNUTE NELSON, Minnesota, *Chairman*

CLARENCE D. CLARK, Wyoming
ROBERT J. GAMBLE, South Dakota
REED SMOOT, Utah
FRANK P. FLINT, California
WELDON B. HEYBURN, Idaho
JOSEPH M. DIXON, Montana
WESLEY L. JONES, Washington
MARTIN N. JOHNSON, North Dakota [1]
PORTER J. McCUMBER, North Dakota [2]

SAMUEL D. McENERY, Louisiana [1]
FRANCIS G. NEWLANDS, Nevada
JEFF DAVIS, Arkansas
ROBERT L. OWEN, Oklahoma
JOHN H. BANKHEAD, Alabama [1]
GEORGE E. CHAMBERLAIN, Oregon
CHARLES J. HUGHES, Jr., Colorado [3]
JOHN R. THORNTON, Louisiana [3]

62d Congress (1911-1913)

Majority: Republican

Minority: Democrat

KNUTE NELSON, Minnesota, *Chairman*

CLARENCE D. CLARK, Wyoming
ROBERT J. GAMBLE, South Dakota
REED SMOOT, Utah [4]
WELDON B. HEYBURN, Idaho [1]
JOSEPH M. DIXON, Montana
SIMON GUGGENHELM, Colorado
JOHN D. WORKS, California
WILLIAM P. JACKSON, Maryland [3]

FRANCIS G. NEWLANDS, Nevada
JEFF DAVIS, Arkansas
GEORGE E. CHAMBERLAIN, Oregon
JOHN R. THORNTON, Louisiana
NATHAN P. BRYAN, Florida [1]
HENRY L. MYERS, Montana
MARCUS A. SMITH, Arizona [3]
CHARLES S. THOMAS, Colorado [3]

63d Congress (1913-1915)

Majority: Democrat

Minority: Republican

GEORGE E. CHAMBERLAIN, Oregon, *Chairman*

HENRY L. MYERS, Montana
MARCUS A. SMITH, Arizona
CHARLES S. THOMAS, Colorado
JOSEPH T. ROBINSON, Arkansas
WILLIAM H. THOMPSON, Kansas
KEY PITTMAN, Nevada
JOSEPH E. RANSDELL, Louisiana
WILLIAM HUGHES, New Jersey

REED SMOOT, Utah
CLARENCE D. CLARK, Wyoming
JOHN D. WORKS, California
ALBERT B. FALL, New Mexico
GEORGE W. NORRIS, Nebraska
THOMAS STERLING, South Dakota

64th Congress (1915-1917)

Majority: Democrat

Minority: Republican

HENRY L. MYERS, Montana, *Chairman*

MARCUS A. SMITH, Arizona
CHARLES S. THOMAS, Colorado
WILLIAM H. THOMPSON, Kansas [1]
KEY PITTMAN, Nevada
JOSEPH E. RANSDELL, Louisiana
GEORGE E. CHAMBERLAIN, Oregon
JAMES D. PHELAN, California
PAUL O. HUSTING, Wisconsin
JOHN F. SHAFROTH, Colorado [3]

REED SMOOT, Utah
CLARENCE D. CLARK, Wyoming
JOHN D. WORKS, California
ALBERT B. FALL, New Mexico
GEORGE W. NORRIS, Nebraska
THOMAS STERLING, South Dakota

65th Congress (1917-1919)

Majority: Democrat

Minority: Republican

HENRY L. MYERS, Montana, *Chairman*

MARCUS A. SMITH, Arizona
KEY PITTMAN, Nevada
JOSEPH E. RANSDELL, Louisiana
GEORGE E. CHAMBERLAIN, Oregon
JAMES D. PHELAN, California
PAUL O. HUSTING, Wisconsin [1]
JOHN F. SHAFROTH, Colorado
ANDRIEUS A. JONES, New Mexico
JOHN B. KENDRICK, Wyoming [3]
EDWIN S. JOHNSON, South Dakota [3]

REED SMOOT, Utah
ALBERT B. FALL, New Mexico
GEORGE W. NORRIS, Nebraska
THOMAS STERLING, South Dakota
JAMES H. BRADY, Idaho [1]
FRANK B. KELLOGG, Minnesota
CHARLES L. McNARY, Oregon [3]
DAVID BAIRD, New Jersey [3]

66th Congress (1919–1921)

Majority: Republican

Minority: Democrat

REED SMOOT, Utah, *Chairman*

ALBERT B. FALL, New Mexico
GEORGE W. NORRIS, Nebraska
THOMAS STERLING, South Dakota
FRANK B. KELLOGG, Minnesota
CHARLES L. McNARY, Oregon
PORTER J. MCCUMBER, North Dakota
MILES POINDEXTER, Washington
IRVINE L. LENROOT, Wisconsin

HENRY L. MYERS, Montana
MARCUS A. SMITH, Arizona
KEY PITTMAN, Nevada
GEORGE E. CHAMBERLAIN, Oregon
JAMES D. PHELAN, California
ANDRIEUS A. JONES, New Mexico
JOHN B. KENDRICK, Wyoming
EDWIN S. JOHNSON, South Dakota

COMMITTEE ON PUBLIC LANDS AND SURVEYS

67th Congress (1921–1923)

Majority: Republican

Minority: Democrat

REED SMOOT, Utah, *Chairman*

GEORGE W. NORRIS, Nebraska
MILES POINDEXTER, Washington
IRVINE L. LENROOT, Wisconsin
ROBERT N. STANFIELD, Oregon
PETER NORBECK, South Dakota
HOLM O. BURSUM, New Mexico

HENRY L. MYERS, Montana
KEY PITTMAN, Nevada
ANDRIEUS A. JONES, New Mexico
JOHN B. KENDRICK, Wyoming
THOMAS J. WALSH, Montana

Third Party
EDWIN F. LADD, North Dakota
(Nonpartisan Republican)

68th Congress (1923–1925)

Majority: Republican

Minority: Democrat

IRVINE L. LENROOT, Wisconsin, *Chairman* [1]

REED SMOOT, Utah
ROBERT N. STANFIELD, Oregon
PETER NORBECK, South Dakota
HOLM O. BURSUM, New Mexico
RALPH H. CAMERON, Arizona
SELDEN P. SPENCER, Missouri [3]

KEY PITTMAN, Nevada
ANDRIEUS A. JONES, New Mexico
JOHN B. KENDRICK, Wyoming
THOMAS J. WALSH, Montana
ALVA B. ADAMS, Colorado [1]
CLARENCE C. DILL, Washington
THADDEUS H. CARAWAY, Arkansas [3]

Third Party
EDWIN F. LADD, North Dakota
(Nonpartisan Republican)[4]

69th Congress (1925–1927)

Majority: Republican

Minority: Democrat

ROBERT N. STANFIELD, Oregon, *Chairman*

REED SMOOT, Utah
PETER NORBECK, South Dakota
RALPH H. CAMERON, Arizona
SELDEN P. SPENCER, Missouri [1]
TASKER L. ODDIE, Nevada
PORTER H. DALE, Vermont
RICE W. MEANS, Colorado [3]
GEORGE H. WILLIAMS, Missouri [2]
GERALD P. NYE, North Dakota [3]
ARTHUR R. GOULD, Maine [3]

KEY PITTMAN, Nevada
ANDRIEUS A. JONES, New Mexico
JOHN B. KENDRICK, Wyoming
THOMAS J. WALSH, Montana
CLARENCE C. DILL, Washington
HENRY F. ASHURST, Arizona

Third Party
EDWIN F. LADD, North Dakota
(Nonpartisan Republican)[1]

70th Congress (1927–1929)

Majority: Republican

Minority: Democrat

GERALD P. NYE, North Dakota, *Chairman*

REED SMOOT, Utah
PETER NORBECK, South Dakota
TASKER L. ODDIE, Nevada
PORTER H. DALE, Vermont
CHARLES L. McNARY, Oregon
FRANK B. WILLIS, Ohio [1]
FRANK R. GOODLING, Idaho [1]
BRONSON M. CUTTING, New Mexico [2]
OTIS F. GLENN, Illinois [3]
OCTAVIANO A. LARRAZOLO, New Mexico [3]

KEY PITTMAN, Nevada
ANDRIEUS A. JONES, New Mexico [1]
JOHN B. KENDRICK, Wyoming
THOMAS J. WALSH, Montana
CLARENCE C. DILL, Washington
HENRY F. ASHURST, Arizona
ROBERT F. WAGNER, New York
SAM G. BRATTON, New Mexico [3]

71st Congress (1929–1931)

Majority: Republican

Minority: Democrat

GERLAD P. NYE, North Dakota, *Chairman*

REED SMOOT, Utah
PETER NORBECK, South Dakota
TASKER L. ODDIE, Nevada
PORTER H. DALE, Vermont
CHARLES L. McNARY, Oregon
OTIS F. GLENN, Illinois
BRONSON M. CUTTING, New Mexico

KEY PITTMAN, Nevada
JOHN B. KENDRICK, Wyoming
THOMAS J. WALSH, Montana
HENRY F. ASHURST, Arizona
ROBERT F. WAGNER, New York
SAM G. BRATTON, New Mexico

72d Congress (1931–1933)

Majority: Republican

Minority: Democrat

GERALD P. NYE, North Dakota, *Chairman*

REED SMOOT, Utah
PETER NORBECK, South Dakota
TASKER L. ODDIE, Nevada
PORTER H. DALE, Vermont
BRONSON M. CUTTING, New Mexico
FREDERICK STEIWER, Oregon
ROBERT D. CAREY, Wyoming

KEY PITTMAN, Nevada
JOHN B. KENDRICK, Wyoming
THOMAS J. WALSH, Montana
HENRY F. ASHURST, Arizona
ROBERT F. WAGNER, New York
CLARENCE D. DILL, Washington
SAM G. BRATTON, New Mexico

73d Congress (1933–1935)

Majority: Democrat

Minority: Republican

JOHN B. KENDRICK, Wyoming, *Chairman*

KEY PITTMAN, Nevada
HENRY F. ASHURST, Arizona
ROBERT F. WAGNER, New York [4]
CLARENCE D. DILL, Washington
SAM G. BRATTON, New Mexico [1]
JOHN E. ERICKSON, Montana
WILLIAM H. THOMPSON, Nebraska
ALVA B. ADAMS, Colorado
CARL A. HATCH, New Mexico [3]
JOSEPH C. O'MAHONEY, Wyoming [3]

PETER NORBECK, South Dakota
PORTER H. DALE, Vermont [1]
GERALD P. NYE, North Dakota
BRONSON M. CUTTING, New Mexico
FREDERICK STEIWER, Oregon
ROBERT D. CAREY, Wyoming

74th Congress (1935–1937)

Majority: Democrat

Minority: Republican

ROBERT F. WAGNER, New York, *Chairman*

KEY PITTMAN, Nevada
HENRY F. ASHURST, Arizona
ALVA B. ADAMS, Colorado
CARL A. HATCH, New Mexico
JOSEPH C. O'MAHONEY, Wyoming
EDWARD P. COSTIGAN, Colorado
JAMES E. MURRAY, Montana
ROSE M. LONG, Louisiana [3]

PETER NORBECK, South Dakota [1]
GERALD P. NYE, North Dakota
BRONSON M. CUTTING, New Mexico [1]
FREDERICK STEIWER, Oregon
ROBERT D. CAREY, Wyoming

Third Party
ELMER A. BENSON, Minnesota (Farmer Laborite)

75th Congress (1937–1939)

Majority: Democrat

Minority: Republican

ALVA B. ADAMS, Colorado, *Chairman*

KEY PITTMAN, Nevada
HENRY F. ASHURST, Arizona
ROBERT F. WAGNER, New York
CARL A. HATCH, New Mexico
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PATRICK A. McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
HERBERT E. HITCHCOCK, South Dakota [1]
JOSHUA B. LEE, Oklahoma
WILLIAM H. SMATHERS, New Jersey
ALFRED E. REAMES, Oregon [3]

GERALD P. NYE, North Dakota
FREDERICK STEIWER, Oregon [1]
WILLIAM E. BORAH, Idaho [1]

76th Congress (1939-1941)

Majority: Democrat

Minority: Republican

ALVA B. ADAMS, Colorado, *Chairman*

KEY PITTMAN, Nevada [1]
HENRY F. ASHURST, Arizona
ROBERT F. WAGNER, New York
CARL A. HATCH, New Mexico
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PATRICK A. McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
JOSHUA B. LEE, Oklahoma
WILLIAM H. SMATHERS, New Jersey

GERALD P. NYE, North Dakota
WILLIAM E. BORAH, Idaho [1]
J. CHANDLER GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho [3]

77th Congress (1941-1943)

Majority: Democrat

Minority: Republican

ALVA B. ADAMS, Colorado, *Chairman* [1]

ROBERT F. WAGNER, New York
CARL A. HATCH, New Mexico [4]
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PATRICK A. McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
JOSHUA B. LEE, Oklahoma
MONRAD C. WALLGREN, Washington
ABED MURDOCK, Utah
EDWIN C. JOHNSON, Colorado [3]

GERALD P. NYE, North Dakota
J. CHANDLER GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho
RAYMOND E. WILLIS, Indiana

78th Congress (1943-1945)

Majority: Democrat

Minority: Republican

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PATRICK A. McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
MONRAD C. WALLGREN, Washington
ABE MURDOCK, Utah
EDWIN C. JOHNSON, Colorado

GERALD P. NYE, North Dakota
J. CHANDLER GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho
RAYMOND E. WILLIS, Indiana
EDWARD V. ROBERTSON, Wyoming

79th Congress (1945-1947)

Majority: Democrat

Minority: Republican

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PATRICK A. McCARRAN, Nevada
CHARLES O. ANDREWS, Florida [1]
ABE MURDOCK, Utah
EDWIN C. JOHNSON, Colorado
GLEN H. TAYLOR, Idaho [1]
HARRY FLOOD BYRD, Virgina

J. CHANDLER GURNEY, South Dakota
JOHN THOMAS, Idaho [1]
RAYMOND E. WILLIS, Indiana
EDWARD V. ROBERTSON, Wyoming
GUY GORDON, Oregon
BOURKE B. HICKENLOOPER, Iowa
WILLIAM A. STANFILL, Kentucky [3]

80th Congress (1947-1949)

Majority: Republican

Minority: Democrat

HUGH A. BUTLER, Nebraska, *Chairman*

EUGENE D. MILLIKEN, Colorado
EDWARD V. ROBERTSON, Wyoming
GUY GORDON, Oregon
HENRY C. DWORSHAK, Idaho
ZALES N. ECTON, Montana
GEORGE W. MALONE, Nevada
AUTHUR V. WATKINS, Utah

CARL A. HATCH, New Mexico
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
SHERIDAN DOWNEY, California
ERNEST W. McFARLAND, Arizona

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

81st Congress (1949-1951)

Majority: Democrat

Minority: Republican

JOSEPH C. O'MAHONEY, Wyoming, *Chairman*

JAMES E. MURRAY, Montana
SHERIDAN DOWNEY, California [1]
ERNEST W. McFARLAND, Arizona
CLINTON P. ANDERSON, New Mexico
BERT H. MILLER, Idaho [1]
ROBERT S. KERR, Oklahoma [1]
EDWARD L. LEAHY, Rhode Island [3]
GLEN H. TAYLOR, Idaho [3]
HERBERT H. LEHMAN, New York [3]

HUGH A. BUTLER, Nebraska
EUGENE D. MILLIKEN, Colorado
GUY CORDON, Oregon
ZALES N. ECTON, Montana
GEORGE W. MALONE, Nevada
ARTHUR V. WATKINS, Utah

82d Congress (1951-1953)

Majority: Democrat

Minority: Republican

JOSEPH C. O'MAHONEY, Wyoming, *Chairman*

JAMES E. MURRAY, Montana
ERNEST W. McFARLAND, Arizona
CLINTON P. ANDERSON, New Mexico
HERBERT H. LEHMAN, New York
RUSSELL B. LONG, Louisiana
GEORGE A. SMATHERS, Florida

HUGH A. BUTLER, Nebraska
EUGENE D. MILLIKEN, Colorado
GUY CORDON, Oregon
ZALES N. ECTON, Montana
GEORGE W. MALONE, Nevada
ARTHUR V. WATKINS, Utah

83d Congress (1953–1955)

Majority: Republican

Minority: Democrat

HUGH A. BUTLER, Nebraska, *Chairman* [1]

EUGENE D. MILLIKEN, Colorado
GUY CORDON, Oregon [3,4]
GEORGE W. MALONE, Nevada
ARTHUR V. WATKINS, Utah
HENRY C. DWORSHAK, Idaho
THOMAS H. KUCHEL, California
FRANK A. BARRETT, Wyoming
EDWARD D. CRIPPA, Wyoming [3]
ERNEST S. BROWN, New York [3]

JAMES E. MURRAY, Montana
CLINTON P. ANDERSON, New Mexico
RUSSELL B. LONG, Louisiana
GEORGE A. SMATHERS, Florida [1]
EARLE C. CLEMENTS, Kentucky [1]
HENRY M. JACKSON, Washington
PRICE M. DANIEL, Texas
ALTON A. LENNON, North Carolina [3]
THOMAS A. BURKE, Ohio [3]

84th Congress (1955–1957)

Majority: Democrat

Minority: Republican

JAMES E. MURRAY, Montana, *Chairman*

CLINTON P. ANDERSON, New Mexico
RUSSELL B. LONG, Louisiana [1]
HENRY M. JACKSON, Washington
JOSEPH C. O'MAHONEY, Wyoming
KERR W. SCOTT, North Carolina [1]
ALAN H. BIBLE, Nevada
RICHARD L. NEUBERGER, Oregon
WILLIAM R. LAIRD III, West Virginia [3]
W. KERR SCOTT, North Carolina [2]
ROBERT HUMPHREYS, Kentucky [3]

EUGENE D. MILLIKEN, Colorado
GEORGE W. MALONE, Nevada
ARTHUR V. WATKINS, Utah
HENRY C. DWORSHAK, Idaho
THOMAS H. KUCHEL, California
FRANK A. BARRETT, Wyoming
BARRY M. GOLDWATER, Arizona

85th Congress (1957–1959)

Majority: Democrat

Minority: Republican

JAMES E. MURRAY, Montana, *Chairman*

CLINTON P. ANDERSON, New Mexico
HENRY M. JACKSON, Washington
JOSEPH C. O'MAHONEY, Wyoming
ALAN H. BIBLE, Nevada
RICHARD L. NEUBERGER, Oregon
JOHN A. CARROLL, Colorado
FRANK F. CHURCH Idaho

GEORGE W. MALONE, Nevada
ARTHUR V. WATKINS, Utah
HENRY C. DWORSHAK, Idaho
THOMAS H. KUCHEL, California
FRANK A. BARRETT, Wyoming
BARRY M. GOLDWATER, Arizona
GORDON L. ALLOTT, Colorado

86th Congress (1959-1961)

Majority: Democrat

Minority: Republican

JAMES E. MURRAY, Montana, *Chairman*

CLINTON P. ANDERSON, New Mexico
HENRY M. JACKSON, Washington
JOSEPH C. O'MAHONEY, Wyoming
ALAN H. BIBLE, Nevada
RICHARD L. NEUBERGER, Oregon [1]
JOHN A. CARROLL, Colorado
FRANK F. CHURCH, Idaho
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
OREN E. LONG, Hawaii [3]
QUENTIN N. BURDICK, North Dakota [3]
HALL S. LUSK, Oregon [2]

HENRY C. DWORSHAK, Idaho
THOMAS H. KUCHEL, California
BARRY M. GOLDWATER, Arizona
GORDON L. ALLOTT, Colorado
KENNETH B. KEATING, New York [1]
HIRAM L. FONG, Hawaii [3]
THOMAS E. MARTIN, Iowa [2]

87th Congress (1961-1963)

Majority: Democrat

Minority: Republican

CLINTON P. ANDERSON, New Mexico, *Chairman*

HENRY M. JACKSON, Washington
ALAN H. BIBLE, Nevada
JOHN A. CARROLL, Colorado
FRANK F. CHURCH, Idaho
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
OREN E. LONG, Hawaii
QUENTIN N. BURDICK, North Dakota
LEE METCALF, Montana
JOHN J. HICKEY, Wyoming [1]

HENRY C. DWORSHAK, Idaho [1]
THOMAS H. KUCHEL, California
BARRY M. GOLDWATER, Arizona [1]
GORDON L. ALLOTT, Colorado
HIRAM L. FONG, Hawaii [1]
JACK R. MILLER, Iowa
EVERETT M. DIRKSEN, Illinois [2]
MAURICE J. MURPHY, JR., New Hampshire [2]
JAMES B. PEARSON, Kansas [3]
JOSEPH H. BOTTUM, South Dakota [3]
LEN B. JORDAN, Idaho [3]

88th Congress (1963-1965)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico
ALAN H. BIBLE, Nevada
FRANK F. CHURCH, Idaho
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
QUENTIN N. BURDICK, North Dakota
LEE METCALF, Montana [1]
CARL HAYDEN, Arizona
GEORGE S. McGOVERN, South Dakota
GAYLORD NELSON, Wisconsin
HERBERT S. WALTERS, Tennessee [3]

THOMAS H. KUCHEL, California
GORDON L. ALLOTT, Colorado
LEN B. JORDAN, Idaho
MILWARD L. SIMPSON, Wyoming
EDWIN L. MECHEM, New Mexico
PETER H. DOMINICK, Colorado

89th Congress (1965–1967)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico
ALAN H. BIBLE, Nevada
FRANK F. CHURCH, Idaho
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
QUENTIN N. BURDICK, North Dakota
CARL HAYDEN, Arizona
GEORGE S. McGOVERN, South Dakota
GAYLORD NELSON, Wisconsin
LEE METCALF, Montana

THOMAS H. KUCHEL, California
GORDON L. ALLOTT, Colorado
LEN B. JORDAN, Idaho
MILWARD L. SIMPSON, Wyoming
PAUL J. FANNIN, Arizona

90th Congress (1967–1969)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico
ALAN H. BIBLE, Nevada
FRANK F. CHURCH, Idaho
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
QUENTIN N. BURDICK, North Dakota
CARL HAYDEN, Arizona
GEORGE S. McGOVERN, South Dakota
GAYLORD NELSON, Wisconsin
LEE METCALF, Montana

THOMAS H. KUCHEL, California
GORDON L. ALLOTT, Colorado
LEN B. JORDAN, Idaho
PAUL J. FANNIN, Arizona
CLIFFORD P. HANSEN, Wyoming
MARK O. HATFIELD, Oregon

91st Congress (1969–1971)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico
ALAN H. BIBLE, Nevada
FRANK F. CHURCH, Idaho
FRANK E. MOSS, Utah
QUENTIN N. BURDICK, North Dakota
GEORGE S. McGOVERN, South Dakota
GAYLORD NELSON, Wisconsin
LEE METCALF, Montana
MIKE GRAVEL, Alaska

GORDON L. ALLOTT, Colorado
LEN B. JORDAN, Idaho
PAUL J. FANNIN, Arizona
CLIFFORD P. HANSEN, Wyoming
MARK O. HATFIELD, Oregon
THEODORE F. STEVENS, Alaska
HENRY BELLMON, Oklahoma

92d Congress (1971-1973)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico
ALAN H. BIBLE, Nevada
FRANK F. CHURCH, Idaho
FRANK E. MOSS, Utah
QUENTIN N. BURDICK, North Dakota
GEORGE S. McGOVERN, South Dakota
LEE METCALF, Montana
MIKE GRAVEL, Alaska

GORDON L. ALLOTT, Colorado
LEN B. JORDAN, Idaho
PAUL J. FANNIN, Arizona
CLIFFORD P. HANSEN, Wyoming
MARK O. HATFIELD, Oregon
THEODORE F. STEVENS, Alaska [1]
HENRY BELLMON, Oklahoma
JAMES L. BUCKLEY, New York (Conservative) [3]

93d Congress (1973-1975)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

ALAN H. BIBLE, Nevada [1]
FRANK F. CHURCH, Idaho
LEE METCALF, Montana
J. BENNETT JOHNSTON, Louisiana
JAMES G. ABOUREZK, South Dakota
FLOYD K. HASKELL, Colorado
GAYLORD NELSON, Wisconsin [3]
HOWARD M. METZENBAUM, Ohio [3]

PAUL J. FANNIN, Arizona
CLIFFORD P. HANSEN, Wyoming
MARK O. HATFIELD, Oregon
JAMES L. BUCKLEY, New York (Conservative)
JAMES A. McCLURE, Idaho
DEWEY F. BARTLETT, Oklahoma
PAUL LAXALT, Nevada [3]

94th Congress (1975-1977)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

FRANK F. CHURCH, Idaho
LEE METCALF, Montana
J. BENNETT JOHNSTON, Louisiana
JAMES G. ABOUREZK, South Dakota
FLOYD K. HASKELL, Colorado
JOHN H. GLENN, Ohio
RICHARD B. STONE, Florida
DALE BUMPERS, Arkansas

PAUL J. FANNIN, Arizona
CLIFFORD P. HANSEN, Wyoming
MARK O. HATFIELD, Oregon
JAMES A. McCLURE, Idaho
DEWEY F. BARTLETT, Oklahoma

95th Congress (1977-1979) [6]

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

FRANK F. CHURCH, Idaho
LEE METCALF, Montana
J. BENNETT JOHNSTON, Louisiana
JAMES G. ABOUREZK, South Dakota
FLOYD K. HASKELL, Colorado
JOHN H. GLENN, Ohio
RICHARD B. STONE, Florida
DALE BUMPERS, Arkansas
PAUL S. SARBANES, Maryland
DANIEL P. MOYNIHAN, New York

CLIFFORD P. HANSEN, Wyoming
MARK O. HATFIELD, Oregon
JAMES A. McCLURE, Idaho
DEWEY F. BARTLETT, Oklahoma
ORRIN G. HATCH, Utah
S.I. HAYAKAWA, California

COMMITTEE ON ENERGY AND NATURAL RESOURCES

95th Congress (1977-1979)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

FRANK F. CHURCH, Idaho
LEE METCALF, Montana
J. BENNETT JOHNSTON, Louisiana
JAMES G. ABOUREZK, South Dakota
FLOYD K. HASKELL, Colorado
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
JOHN A. DURKIN, New Hampshire
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
WENDELL R. ANDERSON, Minnesota (Democrat, Farm Labor)[3]
JOHN MELCHER, Montana

CLIFFORD P. HANSEN, Wyoming[1]
MARK O. HATFIELD, Oregon
JAMES A. McCLURE, Idaho
DEWEY F. BARTLETT, Oklahoma
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
PAUL LAXALT, Nevada

96th Congress (1979-1981)

Majority: Democrat

Minority: Republican

HENRY M. JACKSON, Washington, *Chairman*

FRANK F. CHURCH, Idaho
J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
JOHN A. DURKIN, New Hampshire[1]
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

MARK O. HATFIELD, Oregon
JAMES A. McCLURE, Idaho
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
THEODORE F. STEVENS, Alaska
HENRY BELLMON, Oklahoma
MALCOLM WALLOP, Wyoming

97th Congress (1981-1982)

Majority: Republican

Minority: Democrat

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
GORDON J. HUMPHREY, New Hampshire
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
JOHN P. EAST, North Carolina
JOHN HEINZ, Pennsylvania

HENRY M. JACKSON, Washington
J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

98th Congress (1983–1984)

Majority: Republican

Minority: Democrat

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania
DANIEL J. EVANS, Washington [3]

J. BENNETT JOHNSTON, Louisiana
HENRY M. JACKSON, Washington [1]
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey
CARL LEVIN, Michigan [3]

99th Congress (1985–1986)

Majority: Republican

Minority: Democrat

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
DANIEL J. EVANS, Washington

J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
JOHN MELCHER, Montana
BILL BRADLEY, New Jersey
JEFF BINGAMAN, New Mexico
JOHN D. ROCKEFELLER IV, West Virginia

100th Congress (1987–1988)

Majority: Democrat

Minority: Republican

J. BENNETT JOHNSTON, Louisiana, *Chairman*

DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
JOHN MELCHER, Montana
BILL BRADLEY, New Jersey
JEFF BINGAMAN, New Mexico
TIMOTHY E. WIRTH, Colorado
WYCHE FOWLER, Jr., Georgia
KENT CONRAD, North Dakota

JAMES A. McCLURE, Idaho
MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
DANIEL J. EVANS, Washington

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[1] Member left Committee before end of Congress.

[2] Member appointed or elected to Committee after organization of Congress *and* left Committee before end of Congress.

[3] Member appointed or elected to Committee after organization of Congress.

[4] Second member to serve as Chairman during Congress.

[5] Member left Committee and returned before the end of the Congress.

[6] Reflects temporary Committee assignments pursuant to S. Res. 4, 95th Congress.

APPENDIX C.—CHAIRMEN OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES AND PREDECESSOR COMMITTEES, 14TH-100TH CONGRESSES (1816-PRESENT) [1]

COMMITTEE ON PUBLIC LANDS

Jeremiah Morrow (D-R, OH), 14th-15th Congresses.
Thomas H. Williams (D-R, MS), 16th Congress.
Jesse B. Thomas, (D-R, IL), 16th-17th Congresses.
David Barton (D-R [18th]; D. [19th, 20th]; NR [21st]; MO), 18th-21st Congresses.
William R. King (D., AL), 22nd Congress.
Elias K. Kane (D., IL), 22nd Congress.
George Poindexter (W., MS), 23rd Congress.
Thomas Ewing (W., OH), 24th Congress.
Robert J. Walker (D., MS), 24th-26th Congresses.
Oliver H. Smith (W., IN), 27th Congress.
William Woodbridge (W.+D., MI), 28th Congress.
Sidney Breese (D., IL), 29th-30th Congresses.
Alpheus Felch (D., MI), 31st-32nd Congresses.
Solon Borland (D., AR), 33rd Congress.
Augustus C. Dodge (D., IA), 33rd Congress.
Charles E. Stuart (D., MI), 34th-35th Congresses.
Robert W. Johnson (D., AR), 36th Congress.
James Harlan (R., IA), 37th-39th Congresses.
Samuel C. Pomeroy (R., KA), 39th-42th Congresses.
William Sprague (R., RI), 43rd Congress.
Richard J. Oglesby (R., IL), 44th-45th Congresses.
Joseph E. McDonald (D., IN), 46th Congress.
Preston B. Plumb (R., KA), 47th-52nd Congresses.
Joseph N. Dolph (R., OR), 52nd Congress.
James H. Berry (D., AR), 53rd Congress.
Fred T. Dubois (R., ID), 54th Congress.
Henry C. Hansbrough (R., ND), 55th-60th Congresses.
Knute Nelson (R., MN), 60th-62nd Congresses.
Reed Smoot (R., UT), 62nd, 66th-67th Congresses.[2]
George E. Chamberlain (D., OR), 63rd Congress.
Henry L. Myers (D., MT), 63rd-65th Congresses.
Reed Smoot (R., UT), 66th Congress.

COMMITTEE ON PUBLIC LANDS AND SURVEYS

Reed Smoot (R., UT), 67th Congress.
Irvine L. Lenroot, (R., WI), 68th Congress.
Edwin F. Ladd (R.+NP, ND), 68th Congress.
Robert N. Stanfield (R., OR), 69th Congress.
Gerald P. Nye (R., ND), 70th-72nd Congresses.
John B. Kendrick (D., WY), 73rd Congress.
Robert F. Wagner (D., NY), 74th Congress.
Alva B. Adams (D. CO), 75th-77th Congresses.
Carl A. Hatch (D., NM), 78th-79th Congresses.

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[1] Party affiliations are abbreviated as follows: D., Democrat; R., Republican; D-R, Democrat-Republican; NR, National Republican; W., Whig; NP, Nonpartisan Republican.

[2] Committee renamed Public Lands and Survey in the 67th Congress.

COMMITTEE ON PUBLIC LANDS

Hugh A. Butler (R., NE), 80th, 83rd Congresses.[3]

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Joseph C. O'Mahoney (D., WY), 81st-82nd Congresses.
Guy Cordon (R., OR), 83rd Congress.
James E. Murray (D., MT), 84th-86th Congresses.
Clinton P. Anderson (D., NM), 87th Congress.
Henry M. Jackson (D., WA), 88th-94th Congresses.[4]

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Henry M. Jackson (D., WA), 95th-96th Congresses.
James A. McClure (R., ID), 97th-99th Congresses.
J. Bennett Johnston (D., LA), 100th Congress.

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[3] Committee renamed Public Lands at the outset of the 80th Congress, then Interior and Insular Affairs during the 80th Congress.

[4] Committee renamed Energy and Natural Resources during the 95th Congress.

APPENDIX D.—RANKING MINORITY MEMBERS [1] OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES AND PREDECESSOR COMMITTEES, 14TH THROUGH 100TH CONGRESSES (1816–PRESENT)[2]

COMMITTEE ON PUBLIC LANDS

William Hunter (F., RI), 14th-16th Congresses.
Nicholas Van Dyke (F., DE), 16th-18th Congresses.
(no minority party members), 19th-20th Congresses.
Edward Livingston (D., LA), 21st Congress.
John Holmes (NR, ME), 22nd Congress.
Samuel Prentiss (W., VT), 22nd, 25th-26th Congresses.
(unknown), 23rd Congress.
Gabriel Moore (JD, AL), 24th Congress.
Nathaniel P. Tallmadge (D., NY), 27th-28th Congresses.
Spencer Jarnagin W., TN), 29th Congress.
Thomas Corwin (W., OH), 30th-31st Congresses.
Truman Smith (W., CT), 31st-32nd Congresses.
Thomas G. Pratt (W., MD), 33rd Congress.
Solomon Foot (W., VT), 34th Congress.
Lafayette S. Foster (R., CT), 35th-36th Congresses.
Andrew Johnson (D., TN), 37th Congress.
Henry M. Rice (D., MN), 37th Congress.
Thomas A. Hendricks (D., IN), 38th-40th Congresses.
Eugene Casserly (D., CA), 41st-43rd Congresses.
James K. Kelly (D., OR), 43rd-44th Congresses.
Joseph E. McDonald (D., IN), 45th Congress.
Preston B. Plumb (R., KA), 46th Congress.
Charles W. Jones (D., FL), 47th Congress.
James D. Walker (D., AR), 48th Congress.
John T. Morgan (D., AL), 49th-52nd Congresses.
Edward C. Walthall (D., MS), 52nd Congress.
Joseph N. Dolph (R., OR), 53rd Congress.
James H. Berry (D., AR), 54th-59th Congresses.
Samuel D. McEnery (D., LA), 59th-61st Congresses.
Francis G. Newlands (D., NV), 61st-62nd Congresses.
Reed Smoot (R., UT), 63rd-65th Congresses.
Henry L. Myers (D., MT), 66th-67th Congresses.[3]

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[1] Before the 20th century, the term "Ranking Minority Member" was not used consistently to refer to the minority party member of longest, continuous committee service. Sometimes no minority party Senators were appointed to the Energy Committee, while in other cases only one was so appointed. In these latter cases, the lone minority Senator is designated as the ranking minority member. In other cases, two or more minority party Senators were appointed to the Committee, but none was officially called the ranking minority member. In these cases, the minority Senator slated first is designated as the ranking minority member. In addition, during some Congresses a minority party Senator has chaired the Committee. In these cases, the senior Senator of the opposite party, i.e., the majority party, is designated as the ranking minority member.

Relatedly, especially during the earlier Congresses, the membership and party composition of the Committee may have changed one or more times during the course of a Congress. Sometimes the person initially designated as ranking minority member left the Committee, while other times party control of the Committee changed. In both cases it is sometimes impossible to ascertain with certainty whether subsequent ranking minority members were appointed, and if so exactly who. Consequently, in these situations only the Senator initially designated as ranking minority member is included.

[2] Party affiliations are abbreviated as follows: D., Democrat; R., Republican; F., Federalist; NR, National Republican; JD, Jackson Democrat; W., Whig.

[3] Committee renamed Public Lands and Surveys in the 67th Congress.

COMMITTEE ON PUBLIC LANDS AND SURVEYS

Key Pittman (D., NV), 68th-72nd Congresses.
Peter Norbeck (R., SD), 73rd-74th Congresses.
Gerald P. Nye (R., ND), 75th-78th Congresses.
J. Chandler Gurney (R., SD), 79th Congress.
Harry Flood Byrd (D., VA), 79th Congress.

COMMITTEE ON PUBLIC LANDS

Carl A. Hatch (D., NM), 80th Congress.[4]

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Hugh A. Butler (R., NE), 81st-82nd Congresses.
James E. Murray (D., MT), 83rd Congress.
Eugene D. Milliken (R., CO), 84th Congress.
George W. Malone (R., NV), 85th Congress.
Henry C. Dworshak (R., ID), 86th-87th Congresses.
Thomas H. Kuchel (R., CA), 87th-90th Congresses.
Gordon L. Allott (R., CO), 91st-92nd Congresses.
Paul J. Fannin (R., AZ), 93rd-94th Congresses.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Clifford P. Hansen (R., WY), 95th Congress.[5]
Mark O. Hatfield (R., OR), 96th Congress.
Henry M. Jackson (D., WA), 97th Congress.
J. Bennett Johnston (D., LA), 98th-99th Congresses.
James A. McClure (D., ID), 100th Congress.

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[4] Committee renamed Public Lands at the outset of the 80th Congress, then Interior and Insular Affairs during the 80th Congress.

[5] Committee renamed Energy and Natural Resources during the 95th Congress.

APPENDIX E.—SELECTED STAFF OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES [1]

MAJORITY STAFF DIRECTORS

Stewart French, 1955-1956.
Richard L. Callaghan, 1957-1962.
Jerry T. Verkler, 1963-1974.
Grenville A. Garside, 1975-1978.
Daniel A. Dreyfus, 1979-1981.
Michael D. Hathaway, 1981-1984.
Frank M. Cushing, 1984-1986.
Daryl H. Owen, 1987-present.

MINORITY STAFF DIRECTORS

Steven G. Hickok. 1979-1981.
Daniel A. Dreyfus, 1981.
D. Michael Harvey, 1981-1986.
Frank M. Cushing, 1987-present.

MAJORITY CHIEF COUNSELS

Stewart French, 1955-1970.
William J. Van Ness, Jr., 1971-1976.
D. Michael Harvey, 1977-1980.
Charles A. Trabandt, 1981-1984.
Gary G. Ellsworth, 1984-1986.
D. Michael Harvey, 1987-present.

MINORITY CHIEF COUNSELS

Richard Andrews, 1963-1964.
E. Lewis Reid, 1967-1968.
Charles F. Cook, Jr., 1969.
Harrison Loesch, 1973-1976.
Winfred O. Craft, Jr., 1977-1978.
Stephen L. Crow, 1979-1980.
D. Michael Harvey, 1981-1986.
Gary G. Ellsworth, 1987-present.

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[1] Name changed from Interior and Insular Affairs in 1977 (95th Congress).

APPENDIX F.—LIST OF SECRETARIES OF THE DEPARTMENT OF ENERGY, 1977-1988

Date confirmed	Name	From	President
95th Congress, 1st session, Aug. 4, 1977.	Dr. James R. Schlesinger	Virginia	Jimmy Carter.
96th Congress, 1st session, July 31, 1979.	Charles W. Duncan, Jr	Texas	Jimmy Carter.
97th Congress, 1st session, Jan. 22, 1981.	Dr. James B. Edwards (resigned Nov. 5, 1982) 97th Cong., 2nd sess.	South Carolina	Ronald W. Reagan.
97th Congress, 2nd session, Dec. 27, 1982.	Donald P. Hodel, sworn in by President; had been given recess appointment on Nov. 5, 1982; confirmed by Senate on Dec. 8, 1982.	Oregon	Ronald W. Reagan.
99th Congress, 1st session, Feb. 6, 1985.	John S. Herrington	California	Ronald W. Reagan.

APPENDIX G.—LIST OF SECRETARIES OF THE DEPARTMENT OF THE INTERIOR, 1849–1988

Period of service	Name	From	President
1800's			
Mar. 8, 1849 to July 22, 1850	Thomas Ewing	Ohio	Millard Fillmore.
July 20, 1850	James Alfred Pearce was confirmed on July 20, 1850; took office; never entered on duty; declined appointment to serve in U.S. Senate.	Maryland	Millard Fillmore.
Aug. 15, 1850 to Aug. 26, 1850	Thomas Mckean Thompson McKenna	Delaware	Millard Fillmore.
Sept. 12, 1850 to Mar. 7, 1853	Alexander Hugh Holmes Stuart	Virginia	Millard Fillmore, Franklin Pierce.
Mar. 8, 1853 to Mar. 9, 1857	Robert McClelland	Pennsylvania	James Buchanan.
Mar. 6, 1857 to Jan. 8, 1861	Jacob Thompson	North Carolina	James Buchanan.
Mar. 5, 1861 to Dec. 31, 1862	Caleb Blood Smith	Massachusetts	Abraham Lincoln.
Jan. 8, 1863 to May 15, 1865	John Palmer Usher	New York	Abraham Lincoln, Andrew Johnson.
May 6, 1854 to Aug. 31, 1866	James Harlan	Illinois	Andrew Johnson.
Sept. 1, 1866 to Mar. 4, 1869	Orville Hickman Browning	Kentucky	Andrew Johnson, Ulysses S. Grant.
Mar. 3, 1869 to Oct. 31, 1870	Jacob Dolson Cox	Ohio	Ulysses S. Grant.
Nov. 1, 1870 to Sept. 30, 1875	Columbus Delano	Vermont	Ulysses S. Grant.
Oct. 19, 1875 to Mar. 11, 1877	Zachariah Chandler	New Hampshire	Ulysses S. Grant, Rutherford B. Hayes.
Mar. 12, 1877 to Mar. 7, 1881	Carl Schurz	Missouri	Rutherford B. Hayes, James A. Garfield.
Mar. 5, 1881 to Apr. 17, 1882	Samuel Jordan Kirkwood	Maryland	James A. Garfield, Chester A. Arthur.
Apr. 18, 1882 to Mar. 3, 1885	Henry Moore Teller	New York	Chester A. Arthur.
Mar. 6, 1885 to Jan. 10, 1888	Lucius Quintus Cincinnatus Lomar	Georgia	Grover Cleveland.
Jan. 16, 1888 to Mar. 6, 1889	William Freeman Villas	Vermont	Grover Cleveland, Benjamin Harrison.
Mar. 7, 1889 to Mar. 6, 1893	John Willock Noble	Ohio	Benjamin Harrison, Grover Cleveland.
Mar. 6, 1893 to Sept. 1, 1896	Hoke Smith	North Carolina	Grover Cleveland.
Sept. 3, 1896 to Mar. 5, 1897	David Rowland Francis	Kentucky	Grover Cleveland, William McKinley.
Mar. 6, 1897 to Feb. 19, 1899	Cornelius Newton Bliss	Massachusetts	William McKinley.
1800–1900's			
Feb. 20, 1899 to Mar. 4, 1907	Ethan Allen Hitchcock	Alabama	William McKinley, Theodore Roosevelt.
Mar. 5, 1907 to Mar. 5, 1909	James Rudolph Garfield	Ohio	Theodore Roosevelt, William H. Taft.
Mar. 6, 1909 to Feb. 12, 1911	Richard Achilles Ballinger	Iowa	William H. Taft.
Mar. 13, 1911 to April 5, 1913	Walter Lowrie Fisher	Virginia	William H. Taft, Woodrow Wilson.
Mar. 6, 1913 to Feb. 29, 1920	Franklin Knight Lane	California	Woodrow Wilson.
Feb. 29, 1920 to Mar. 1, 1921	John Barton Payne	Virginia	Woodrow Wilson, Warren G. Harding.
Mar. 5, 1921 to Mar. 4, 1923	Albert Bacon Fall	Kentucky	Warren G. Harding.
Mar. 5, 1923 to July 24, 1928	Hubert Work	Pennsylvania	Warren G. Harding, Calvin Coolidge.
July 25, 1928 to Mar. 4, 1929	Roy Owen West	Illinois	Calvin Coolidge, Herbert C. Hoover.

Period of service	Name	From	President
Mar. 5, 1929 to Mar. 4, 1933	Ray Lyman Wilbur	Iowa	Herbert C. Hoover, Franklin D. Roosevelt.
Mar. 4, 1933 to Feb. 15, 1946	Harold LeClair Ickes	Pennsylvania	Franklin D. Roosevelt, Harry S Truman.
Mar. 18, 1946 to Dec. 1, 1949	Julius Albert Krug	Wisconsin	Harry S Truman.
Dec. 1, 1949 to Jan. 20, 1953	Oscar Littleton Chapman	Virginia	Harry S Truman.
Jan. 21, 1953 to Apr. 15, 1956	Douglas McKay	Oregon	Dwight D. Eisenhower.
June 8, 1956 to Jan. 20, 1961	Fred Andrew Seaton	Nebraska	Dwight D. Eisenhower.
Jan. 21, 1961 to Jan. 20, 1969	Stewart Lee Udall	Arizona	John F. Kennedy, Lyndon B. Johnson.
Jan. 15, 1969 to Nov. 25, 1970	Walter Joseph Hickel	Alaska	Richard M. Nixon
Jan. 29, 1971 to Apr. 30, 1975	Rogers C.B. Morton	Maryland	Richard M. Nixon, Gerald R. Ford.
June 12, 1975 to July 25, 1975	Stanley K. Hathaway	Wyoming	Gerald R. Ford.
Oct. 17, 1975 to Jan. 20, 1977	Thomas Savig Kleppe	North Dakota	Gerald R. Ford.
Jan. 20, 1977 to Dec. 20, 1980	Cecil D. Andrus	Idaho	Jimmy Carter.
Jan. 22, 1981 to Nov. 8, 1983	James G. Watt	Colorado	Ronald W. Reagan.
Nov. 18, 1983 to Apr. 7, 1985	Judge William P. Clark	California	Ronald W. Reagan.
Feb. 6, 1985 to Jan. 20, 1989	Donald P. Hodel	Oregon	Ronald W. Reagan.

APPENDIX H.—AMERICA'S NATURAL RESOURCE TREASURES AND HISTORIC LANDMARKS

RESOLUTION BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE

PIETRO A. (TONY) BEVINETTO

Whereas Pietro A. (Tony) Bevinetto served the Senate with distinction as a legislative assistant to Senator Clifford P. Hansen of Wyoming from 1977 to 1978; and as a member of the staff of the Senate Committee on Energy and Natural Resources from 1979 to 1988; and

Whereas Tony Bevinetto made significant contributions to the preservation of the Nation's natural resources for future generations through his work to designate units of the national park, wilderness, wild and scenic rivers, trails and forest systems; and

Whereas Tony Bevinetto made similar contributions to the enhancement and development of outdoor recreation opportunities on the Nation's public lands and recreation areas; and

Whereas Tony Bevinetto will be remembered with affection by all who knew him not only for this good work but also for his kindness, courage, integrity, humor, and zest for life: Now, therefore, be it

Resolved, That the members of the Committee on Energy and Natural Resources record with profound sorrow the death of Tony Bevinetto on July 3, 1988, and convey their deepest sympathies to his family and friends.

This section is dedicated to the memory
of

Pietro Antonio (Tony) Bevinetto
December 13, 1931
July 3, 1988

Beloved colleague on the staff of the
Committee on Energy and Natural Resources
Subcommittee on
Public Lands, National Parks and Forests

There are 337 parks, monuments, battlefields, historic sites and other management units in the National Park System. The following pages include a state-by-state listing of the great parks, rivers and trails, places of scenic beauty and national landmarks that are steeped in the history of our land.

The Committee expresses its appreciation to the National Park Service for the use of all photographs and related information contained herein.

I. National Park System.
II. Affiliated Areas.
III. National Trails System.
IV. Wild and Scenic Rivers System.

I. NATIONAL PARK SYSTEM

Alabama
Horseshoe Bend NMP
Natchez Trace NST
Natchez Trace Parkway
Russell Cave NM
Tuskegee Institute NHS

Alaska
Alagnak Wild River
Aniakchak NMP
Bering Land Bridge NP
Cape Krusenstern NM
Denali NPP
Gates of the Arctic NPP
Glacier Bay NPP
Katmak NPP
Kenai Fjords NP
Klondike Gold Rush NHP
Kobuk Valley NP
Lake Clark NPP
Noatak National Preserve
Sitka NHP
Wrangell-St. Elias NPP
Yukon-Charley Rivers National Preserve

American Samoa
Samoa National Park

Arizona
Canyon de Chelly NM
Casa Grande NM
Chricahua NM
Coronado NMEM
Fort Bowie NHS
Glen Canyon NRA
Grand Canyon NP
Hohokam Pima NM
Hubbell Trading Post NHS
Lake Mead NRA
Montezuma Castle NM
Navajo NM
Organ Pipe Cactus NM
Petrified Forest NP
Pipe Spring NM
Saguaro NM
Sunset Crater NM
Tonto NM
Tumacacori NM
Tuzigoot NM
Walnut Canyon NM
Wupatki NM

Arkansas
Arkansas Post NMEM
Buffalo National River
Fort Smith NHS
Hot Springs NP
Pea Ridge NMP

California
Cabrillo NM
Channel Islands NP
Death Valley NM
Devils Postpile NM
Eugene O'Neill NHS
Fort Point NHS
Golden Gate NRA
John Muir NHS
Joshua Tree NM
Kings Canyon NP
Lassen Volcanic NP
Lava Beds NM
Muir Woods NM
Pinnacles NM
Point Reyes NS
Redwood NP
San Francisco Maritime NSP
Santa Monica Mountains NRA
Sequoia NP
Whiskytown-Shasta-Trinity NRA
Yosemite NP

Colorado
Bent's Old Fort NHS
Black Canyon of the Gunnison NM
Colorado NM
Curecanti NRA
Dinosaur NM
Florissant Fossil Beds NM
Great Sand Dunes NM
Hovenweep NM
Mesa Verde NP
Rocky Mountain NP
Yucca House NM

Connecticut
Appalachian NST

District of Columbia
Chesapeake and Ohio Canal NHP

Constitution Gardens
Ford's Theatre NHS
Frederick Douglass Home
John F. Kennedy Center
Lincoln Memorial
Lyndon Baines Johnson MEM
National Capitol Parks
National Mall
Pennsylvania Avenue NHS
Potomac Heritage NST
Rock Creek Park
Theodore Roosevelt Island
Thomas Jefferson Memorial
Vietnam Veterans Memorial
Washington Monument
White House

Florida
Big Cypress National Preserve
Biscayne NP
Canaveral NS
Castillo de San Marcos NM
De Soto NM
Everglades NP
Fort Caroline NM
Fort Jefferson NM
Fort Matanzas NM
Gulf Islands NS
Timucuan Ecological and Historic Preserve

Georgia
Andersonville NHS
Appalachian NST
Chattahoochee River NRA
Chickamauga and Chattanooga NMP
Cumberland Island NS
Fort Frederica NM
Fort Pulaski NM
Kennesaw Mountain NBP
Martin Luther King, Jr. NHS
Ocmulgee NM
Jimmy Carter NHS

Guam
War in the Pacific NHP

Hawaii
Haleakala NP
Hawaii Volcanos NP
Kalaupapa NHP
Kaloko-Honokohau NHP
Pu'uhonua o Honaunau NHP
Puukoholo Heiau NHS
USS *Arizona* Memorial

Idaho
City of Rocks NR
Craters of the Moon NM
Hagerman Fossil Beds NM
Nez Perce NHP
Yellowstone NP

Illinois
Lincoln Home NHS

Indiana
George Rogers Clark NHP
Indiana Dunes National Lakeshore
Lincoln Boyhood NM

Iowa
Effigy Mounds NM
Herbert Hoover NHS

Kansas
Fort Larned NHS
Fort Scott NHS

Kentucky
Abraham Lincoln Birthplace
Big South Fork National River and Recreation Area
Cumberland Gap NHP
Mammoth Cave NP

Louisiana
Jean Lafitte National Historical Park and Preserve
Poverty Point NM

Maine
Acadia NP
Appalachian NST
Saint Croix Island International Historic Site

Maryland
Antietam NB
Appalachian NST
Assateague Island NS
Catoctin Mountain Park
Chesapeake and Ohio Canal NHP
Clara Barton NHS
Fort McHenry NM and Shrine
Fort Washington Park
George Washington Memorial Pkwy.
Greenbelt Park
Hampton National Historic Site
Harpers Ferry NHP
Monocacy NB
Piscataway Park
Thomas Stone NHS

Massachusetts
Adams NHS
Appalachian NST
Boston NHP
Cape Cod NS
Frederick Law Olmsted NHS
John Fitzgerald Kennedy NHS
Longfellow NHS
Lowell NHP
Minute Man NHP
Salem Maritime NHS
Saugus Iron Works NHS
Springfield Armory NHS

Michigan
Isle Royale NP
Pictured Ricks National Lakeshore
Sleeping Bear Dunes National Lakeshore

Minnesota

Grand Portage NM
Lower Saint Croix National Scenic Riverway
Mississippi National River and Recreation Area
Pipestone NM
Saint Croix National Scenic Riverway
Voyageurs NP

Mississippi

Brices Cross Roads NBS
Gulf Islands NS
Natchez NHP
Natchez Trace NST
Natchez Trace Parkway
Tupelo NB
Vicksburg NMP

Missouri

George Washington Carver NM
Harry S. Truman NHS
Jefferson National Expansion Memorial
Ozark National Scenic Riverways
Wilson's Creek NB

Montana

Big Hole NB
Bighorn Canyon NRA
Custer BNM
Fort Union Trading Post NHS
Glacier NP
Grant-Kohrs Ranch NHS
Yellowstone NP

Nebraska

Agate Fossil Beds NM
Homestead NM of America
Missouri National Recreational River
Scotts Bluff NM

Nevada

Death Valley NM
Great Basin NP
Lake Mead National Recreation Area

New Hampshire

Appalachian NST
Saint-Gaudens NHS

New Jersey

Appalachian NST
Delaware NSR
Delaware Water Gap NRA
Edison NHS
Gateway NRA
Morristown NHP
Statue of Liberty NM

New Mexico

Aztec Ruins NM
Bandelier NM
Capulin Volcano NM
Carlsbad Caverns NP
Chaco Culture NHP
El Malpais NM
El Morro NM
Fort Union NM
Gila Cliff Dwellings NM
Pecos NM
Salinas NM
White Sands NM
Zuni-Cibola NHP

New York

Appalachian NST
Castle Clinton NM
Delaware National SR
Eleanor Roosevelt NHS
Federal Hall NM
Fire Island NS
Fort Stanwix NM
Gateway NRA
General Grant NM
Hamilton Grange NMEM
Home of Franklin D. Roosevelt NHS
Martin Van Buren NHS
Saint Paul's Church NHS
Saratoga NHP
Statue of Liberty NM
Theodore Roosevelt Birthplace NHS
Theodore Roosevelt Inaugural NHS
Upper Delaware Scenic and Recreational River
Vanderbilt Mansion NHS
Women's Rights NHP

North Carolina

Appalachian NST
Blue Ridge Parkway
Cape Hatteras NS
Cape Lookout NS
Carl Sandburg Home NHS
Fort Raleigh NHS
Great Smoky Mountains NP
Guilford Courthouse NMP
Moores Creek NB
Wright Brothers NMEM

North Dakota

Fort Union Trading Post NHS
Knife River Indian Villages NHS
Theodore Roosevelt NP

Ohio

Cuyahoga Valley NRA
James A. Garfield NHS
Mound City Group NM
Perry's Victory and International Peace Memorial
William Howard Taft NHS

Oklahoma

Chickasaw NRA
Fort Smith NHS

Oregon

Crater Lake NP
Fort Clatsop NMEM
John Day Fossil Beds NM
Oregon Caves NM

Pennsylvania

Allegheny Portage Railroad NHS

Appalachian NST
Delaware NRS
Delaware Water Gap NRA
Edgar Allen Poe NHS
Eisenhower NHS
Fort Necessity NB
Friendship Hill NHS
Gettysburg NMP
Hopewell Furnace NHS
Independence NHP
Johnstown Flood NMEM
Potomac Heritage NST
Thaddeus Kosciuszko NMEM
Upper Delaware Scenic and Recreational River
Valley Forge NHP

Puerto Rico

San Juan NHS

Rhode Island

Roger Williams NMEM

South Carolina

Charles Pinckney NHS
Congaree Swamp NM
Cowpens NB
Fort Sumter NM
Kings Mountain NMP
Ninety Six NHS

South Dakota

Badlands NP
Jewel Cave NM
Missouri National Recreational River
Mount Rushmore NMEM
Wind Cave NP

Tennessee

Andrew Johnson NHS
Appalachian NST
Big South Fork National River and Recreational Area
Chickamauga and Chattanooga NMP
Cumberland Gap NHP
Fort Donelson NB
Great Smoky Mountains NP
Natchez Trace NST
Natchez Trace Parkway
Obed Wild and Scenic River
Shiloh NMP
Stones River NB

Texas

Alibates Flint Quarries NM
Amistad Recreation Area
Big Bend NP
Big Thicket National Preserve
Chamizal National Memorial
Fort Davis NHS
Guadalupe Mountains NP
Lake Meredith Recreation Area
Lyndon B. Johnson NHP
Padre Island NS
Palo Alto Battlefield NHS
Rio Grande Wild and Scenic River
San Antonio Missions NHP

Utah

Arches NP
Bryce Canyon NP
Canyonlands NP
Capitol Reef NP
Cedar Breaks NM
Dinosaur NM
Glen Canyon NRA
Golden Spikes NHS
Hovenweep NM
Natural Bridges NM
Rainbow Bridge NM
Timpanogos Cave NM
Zion NP

Vermont

Appalachian NST

Virginia

Appalachian NST
Appomattox Court House NHP
Arlington House, The Robert E. Lee Memorial
Assateague Island NS
Blue Ridge Parkway
Booker T. Washington NM
Colonial NHP
Cumberland Gap NHP
Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park
George Washington Birthplace NM
George Washington Memorial Pkwy
Harpers Ferry NHP
Maggie L. Walker NHS
Manassas NBP
Petersburg NB
Potomac Heritage NST
Prince William Forest Park
Richmond National BP
Shenandoah NP
Wolf Trap Farm Park for the Performing Arts

Virgin Islands

Buck Island Reef NM
Christiansted NHS
Virgin Islands NP

Washington

Coulee Dam NRA
Ebey's Landing NHR
Fort Vancouver NHS
Klondike Gold Rush NHP
Lake Chelan NRA
Mount Rainier NP
North Cascades NP
Olympic NP
Ross Lake NRA
San Juan Island NHP
Whitman Mission NHS

West Virginia

Appalachian NST
Chesapeake and Ohio Canal NHP
Gauley NRA

Harpers Ferry NHP
New River Gorge National River

Wisconsin

Apostle Islands National Lakeshore
Lower Saint Croix National Scenic Riverway
Saint Croix National Scenic Riverway

Wyoming

Bighorn Canyon NRA
Devils Tower NM
Fort Laramie NHS
Fossil Butte NM
Grand Teton NP
John D. Rockefeller, Jr. Memorial Parkway
Yellowstone NP

NB — National Battlefield.
NBP — National Battlefield Park.
NHP — National Historical Park.
NHR — National Historical Reserve.
NHS — National Historical Site.
NM — National Monument.
NM&P — National Monument and Preserve.
NMEM — National Memorial.
NMP — National Military Park.
NP — National Park.
NP&P — National Park and Preserve.
NPRE — National Preserve.
NRA — National Recreation Area.
NST — National Scenic Trail.
NS — National Seashore.

II. AFFILIATED AREAS

American Memorial Park, Saipan, CM.
Benjamin Franklin NMEM, Philadelphia, PA.
Blackstone River Valley National Heritage Corridor, Boston, MA.
Boston African American National Historic Site, Boston, MA.
Chicago Portage NHS, River Forest, IL.
Chimney Rock NHS, Gering, NE.
David Berger National Memorial, Cleveland Heights, OH.
Father Marquette NMEM, Lansing, MI.
Gloria Dei (Old Swedes') Church National Historic Site, Philadelphia, PA.
Green Springs Historic District, Fredericksburg, VA.
Historic Camden, Camden, SC.
Ice Age National Scenic Trail (see National Trails Systems).
Ice Age National Scientific Reserve, Madison, WI.
Iditarod National Historic Trail (see National Trails System).
Illinois and Michigan Canal National Heritage Corridor, Joliet, IL.
International Peace Garden, Danseith, ND.
Jamestown National Historic Site, Jamestown, VA.
Lewis and Clark NHT (see National Trails System).
McLoughlin House NHS, Oregon City, OR.
Mary McLeod Bethune Council House National Historic Site, Washington, DC.
Mormon Pioneer NHS (see National Trails System).
North Country NST (see National Trails System).
Oregon National Historic Trail (see National Trails System).
Overmountain Victory NHS (see National Trails System).
Pinelands National Reserve, Philadelphia, PA.
Red Hill Patrick Henry National Memorial, Brookneal, VA.
Roosevelt Campobello International Park, Lubec, ME.
Sewall-Belmont House NHS, Washington, DC.
Steamtown NHS, Scranton, PA.
Touro Synagogue NHS, Newport, RI.

III. NATIONAL TRAILS SYSTEM

Appalachian National Scenic Trail, Harpers Ferry, WV.

Continental Divide National Scenic Trail.—Trail extends from the Canadian border in Glacier National Park, Montana, through Idaho, Wyoming, Colorado, and New Mexico to Mexico.

Florida National Scenic Trail.—Trail runs north from Everglades National Park and through Big Cypress, the Kissimee Prairie, and various national and state forests.

Ice Age National Scenic Trail.—Winding through Wisconsin, the trail links together six of the nine units of the Ice Age National Scientific Reserve. The 1,000-mile hiking trail traverses Wisconsins's glacial heritage.

Iditarod National Historic Trail.—One of the Alaska Gold Rush Trails, this 2,037-mile trail extends from Seward to Nome and is composed of a network of trails and side trails developed during the gold rush era at the turn of the century.

Lewis and Clark National Historic Trail.—Trail commemorates the route of the 1804-06 Lewis and Clark Expedition from the Mississippi River to the Pacific Ocean at the mouth of the Columbia River, and return.

Mormon Pioneer National Historic Trail.—This 1,300-mile trail follows the route over which Brigham Young led the Mormon adherents from Nauvoo, Illinois, to the site of modern Salt Lake City, Utah, in 1847.

Natchez Trace National Scenic Trail.—National Park System unit.

Nez Perce National Trail.—The Trail begins in northeastern Oregon, extends through Idaho, traverses eastern Montana, crosses and recrosses the Continental Divide, bisects Yellowstone National Park in Wyoming and proceeds across the plains of central Montana to the foothills of the Bear Paw Mountains.

North Country National Scenic Trail.—The route of the North Country Trail extends 3,200 miles from Crown Point, New York, to the Missouri River and Lake Sakakawea in North Dakota, where it intersects the Lewis and Clark National Historic Trail at Garrison Dam.

Oregon National Historic Trail.—The 2,000-mile trail took pioneers westward from Independence, Missouri, to the vicinity of modern Portland, Oregon.

Overmountain Victory National Historic Trail.—This is the 272-mile path followed by a band of revolutionary patriots through parts of Virginia, Tennessee, and North Carolina to Kings Mountain, South Carolina, where they defeated the British in 1780.

Pacific Crest Trail.—Extending from the Mexico-California border northward along the mountain ranges of California, Oregon, and Washington, the trail reaches the Canadian border near Ross Lake, Washington.

Potomac Heritage National Scenic Trail.—National Park System unit.

Santa Fe National Historic Trail.—Route of the Sant Fe Trail extends 950 miles from a point near Arrow Rock, Missouri, through Kansas, Oklahoma, and Colorado to Santa Fe.

IV. WILD AND SCENIC RIVERS SYSTEM

Alagnak Wild River, Alaska.
Alatna Wild River, Alaska.
Allagash Wilderness Waterway, Maine.
American River, North Fork, California.
Andreafsky River, Alaska.
Aniakchak Wild River, Alaska.
Au Sable River, Michigan.
Beaver Creek, Alaska.
Big South Fork National River and Recreation Area, Tennessee.
Birch Creek, Alaska.
Black Creek, Mississippi.
Buffalo National River, Arkansas.
Cache la Poudre River, Colorado.
Charley Wild River, Alaska.
Chatooga River, Georgia.
Chilikadrotna Wild River, Alaska.
Clearwater River, Middle Fork, Idaho.
Delaware National Scenic River, Pennsylvania.
Delta River, Alaska.
Eel River, California.
Eleven Point River, Missouri.
Feather River, Middle Fork, California.
Flathead River, Montana.
Fortymile River, Alaska.
Gulkana River, Alaska.
Horsepasture River, North Carolina.
Illinois River, Oregon.

Ivishak River, Alaska.
John Wild River, Alaska.
Klamath River, California.
Klickitat River, Washington.
Kobuk Wild River, Alaska.
Little Beaver Creek, Ohio.
Little Miami River, Ohio.
Lower American River, California.
Lower Saint Croix National Scenic Riverway, Wisconsin.
Lower Saint Croix Riverway, Minnesota.
Loxahatchee River, Florida.
Middle Delaware River, Pennsylvania.
Missouri National Recreational River, Nebraska.
Missouri River, Montana.
Mulchatna Wild River, Alaska.
New River Gorge National River, West Virginia.
New River, South Fork, North Carolina.
Noatak Wild River, Alaska.
North Fork of the Koyukuk Wild River, Alaska.
Nowitna River, Alaska.
Obed Wild and Scenic River, Tennessee.
Owyhee River, Oregon.
Ozark National Scenic Riverways, Missouri.
Pere Marquette River, Michigan.
Rapid River, Oregon.
Rio Grande, New Mexico.
Rio Grande Wild and Scenic River, Texas.
Rogue River, Oregon.
Saint Croix National Scenic Riverway, Wisconsin.
Saint Joe River, Idaho.
Saline Bayou, Louisiana.
Salmon River, Middle Fork, Idaho.
Salmon River, Idaho.
Salmon Wild River, Alaska.
Selawik River, Alaska.
Sheenjek River, Alaska.
Skagit River, Washington.
Smith River, California.
Snake River, Oregon.
Tinayguk Wild River, Alaska.
Tlikakila Wild River, Alaska.
Trinity River, California.
Tuolumne River, California.
Unalaklett River, Alaska.
Upper Delaware River, Pennsylvania.
Verde River, Arizona.
White Salmon River, Washington.
Wind River, Alaska.
Wolf River, Wisconsin.

STATISTICAL SUMMARY

Classification	Number	Acreage [1]
International Historic Site	1	35.39
National Battlefield	11	12,771.90
National Battlefield Park	3	8,167.25
National Battlefield Site	1	1.00
National Capital Park	1	6,468.88
National Historic Site	63	17,946.95
National Historical Park	26	150,741.76
National Historical Reserve	1	8,000.00
National Lakeshore	4	225,930.73
National Mall	1	146.35
National Memorial	25	7,949.11
National Military Park	9	34,045.01

STATISTICAL SUMMARY—Continued

Classification	Number	Acreage [1]
National Monument	77	4,717,182.50
National Park	49	47,242,673.78
National Parkway	4	167,090.30
National Preserve	11	21,960,218.82
National Recreation Area	17	3,686,830.25
National Rivers [2]	4	239,004.24
National Scenic Trail	3	174,225.94
National Seashore	10	597,060.31
National Wild and Scenic River and Riverway [3]	8	313,533.61
Park (other)	10	32,128.78
White House	1	18.07
Total	341	79,602,170.93

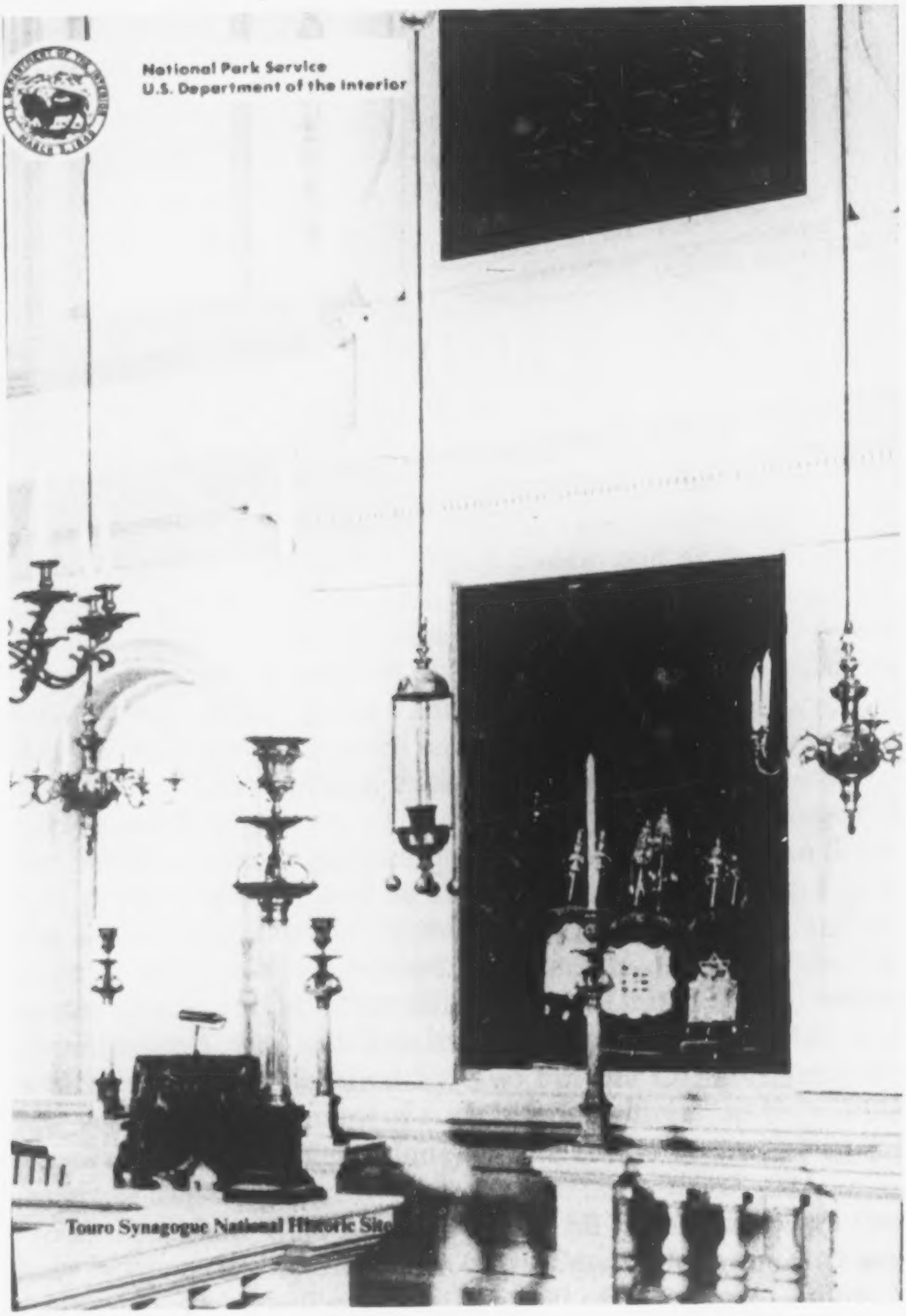
[1] Acreages as of September 30, 1987.

[2] National Park System units only.

[3] National Park System units and components of the Wild and Scenic Rivers System.

National Park Service
U.S. Department of the Interior
NPS Photo
174.90.64

Craters of the Moon
National Monument
Idaho



National Park Service
U.S. Department of the Interior

Touro Synagogue National Historic Site

National Park Service
U.S. Department of the Interior
NPS Photo by Richard Frear
No. 73 262 1

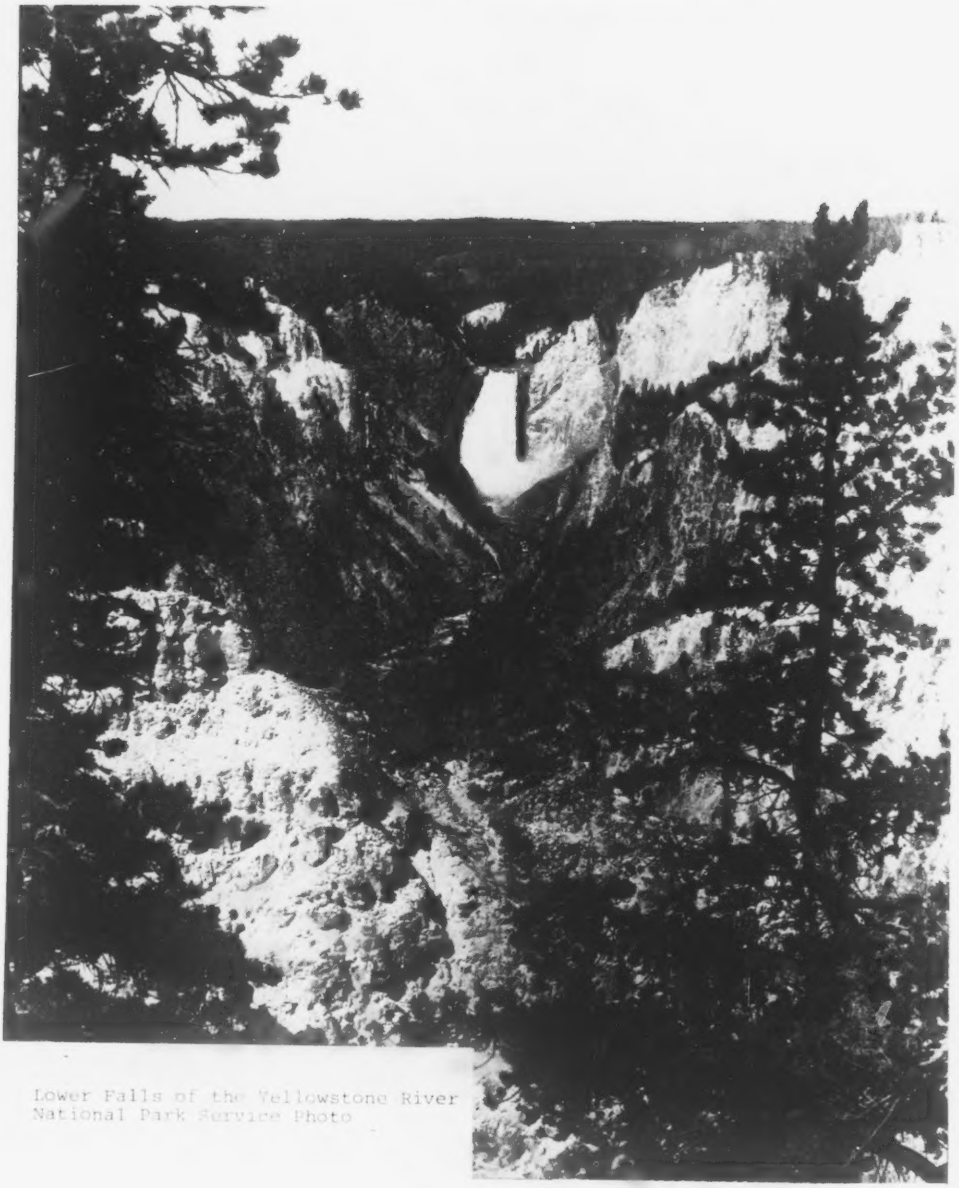
Site of the birthplace and childhood home of the famous Negro leader and educator. Nineteenth century farming activities are in continuous operation all year.

Booker T. Washington
National Monument, Virginia

National Park Service
U.S. Department of the Interior
NPS Photo by Fred E. Mang, Jr.
148-212

CAPULIN MOUNTAIN, an extinct volcano cone, rises 8,215 feet above the relatively flat lands of northeastern New Mexico. A road winds to the crater's summit where a mile-long foot trail leads to the rim's highest point. Here hikers can view five states--New Mexico, Texas, Oklahoma, Kansas, and Colorado.

CAPULIN MOUNTAIN
National Monument
New Mexico



Lower Falls of the Yellowstone River
National Park Service Photo

STATUE OF LIBERTY
National Monument
New York

[illegible]

National Park Service
U.S. Department of the Interior
NPS Photo by Richard Frear
368-284

PENNSYLVANIA AVENUE, A NATIONAL HISTORIC SITE IN THE FEDERAL CITY OF WASHINGTON, D.C.

Early History of the Avenue of the Presidents

Known best as the traditional route of pageantry, ceremony and cheering throngs for Presidential inaugurations every four years, Pennsylvania Avenue is a magnificent reflection of the revolutionary vision of the men who founded our nation in 1776 with their dream of a Federal city that would be different from all others. In addition to being the seat of government, it would be an exuberant expression of the spirit of the people in the young nation of America.

The decision to make the southern city of Washington the permanent national capital was the result of an agreement between Thomas Jefferson and Alexander Hamilton. President George Washington laid the cornerstone of the new Capitol on September 18, 1793. Congress continued to meet in Philadelphia until completion of the Capitol in 1800.

When the city was little more than a few drawings on paper, the ten-mile square was named "District of Columbia" and the Capitol itself "City of Washington". President Washington himself perceived that the life of the new Nation was to be expressed in the architecture and urban design of the Capital City.

A brilliant young French military engineer, Pierre Charles L'Enfant, was commissioned by President Washington to plan the new Capitol. When L'Enfant looked across the vast area of uncleared swampland, he envisioned a grand design of radial street patterns, including a ceremonial avenue with fountains and parks and wide vistas.

The visible symbols of the Federal City would be the two great buildings, the "President's House" and the "Federal House" where Congress would meet, representing the legislative and executive branches. In the new concept of government which these buildings represented, the legislative and executive powers of the Nation would be at once separated and joined together. The separation was to be seen in the distance between them—just over a mile. Their connection was to be Pennsylvania Avenue, named for the State wherein our independence was first proclaimed.

In a statement made to the Senate on the early history of the capitol, Senator Daniel Patrick Moynihan commented as follows:

> Mr. President, the capital originally was in New York and might still be there had Hamilton and Jefferson not reached their agreement on the Federal assumption of the Revolutionary War debts. The new condition which President Jefferson put on that was that the capitol move to the banks of the Potomac which turned malarial in April such that any Congressman who lingered here until May might not be back in December.
>
> There followed an extraordinary stroke of genius the choice of Pierre L'Enfant to design a capital where there was then only swamp and hills. It was a matter of great concern to George Washington and to Thomas Jefferson. Those men knew they were shaping a republic. They put

> into the city plan of Washington almost a diagram of the Constitution with connection between the Capitol and the White House along Pennsylvania Avenue.
>
> —*Congressional Record, June 10, 1986.*

In 1800, when the Federal Government finally arrived, the area that is now Pennsylvania Avenue was a tangle of elder bushes, swamp grasses, and tree stumps. Thomas Jefferson was the first President to be inaugurated in the nation's new Capitol in 1801. Gradually, the Federal City came to life with the planting of some trees and the erection of private buildings. Progress was slow, and as the years and generations passed, the L'Enfant plan was never completed.

Years of Neglect and Decline

With the passage of time, as Pennsylvania Avenue and its surrounding area became so necessary for public activities, it became less and less suited for private ones. Eventually, like other American cities, Pennsylvania Avenue suffered a gradual deterioration resulting in an exodus of previously established private commercvial activities and a blighted character which imposed severe economic, and social liabilities on the government of the District of Columbia as the seat of the Federal Government.

In the early 1960's, the business and commercial center of the city began to drift northwestward, away from the Federal City. The grand boulevard of the Nation was in fact a run-down avenue, lined with a dreary assortment of neglected buildings in various states of disuse, disrepair and abandonment, its once vibrant business district in decline.

It was a threadbare area that reflected a sad commentary on the character and ambience of the main street of the world's most influential city.

The beautiful ceremonial avenue that we take for granted today simply did not exist.

Death of President John F. Kennedy

In the decade of the 1960's a tragic event occurred that would lead to the designation of Pennsylvania Avenue as a national historic site.

When John F. Kennedy began his triumphant ride from the White House to the Capitol on January 20, 1961, to give his inaugural address, he could not have known that this famous avenue would all too soon be a street of sorrow where a grief-stricken nation and indeed the world would share the burden of the loss of a fallen leader traversing his last mile toward his final resting place.

The long process of restoration actually began on that day.

High on President Kennedy's agenda after assuming office was the creation of a "Temporary Commission" to consider the future of Pennsylvania Avenue. One of the key members of the Commission was Daniel Patrick Moynihan, whose invaluable role would span two Presidential administrations and lead to a Congressional commitment following several propsoals of enthusiastic support of legislation for redeveloping this portion of the District of Columbia from the Capitol to the White House.

Senator Moynihan in his remarks to the Senate on June 10, 1986, further commented:

> . . . When President Kennedy was inaugurated almost 25 years ago, almost the first thing he did was to speak to a member of his Cabinet, Arthur Goldberg, later Justice Goldberg, saying:
>
> > What are we going to do about the area between the Capitol and the White House? It is disappearing. The city is floating out Wisconsin Avenue. This area is vital. We cannot have the lights go off at night. If our Capitol is isolated and forgotten, something has changed in our constitutional arrangement.
>
> The last thing President Kennedy said before he left Washington for Dallas was that when he got back he wanted a coffee hour with the congressional leaders to talk about the new plan for Pennsylvania Avenue.

In June 1962, President Kennedy appointed the President's Advisory Council on Pennsylvania Avenue. Its purpose was to propose a mode of development consistent with the historic heritage and to seek to increase the private, commercial, residential, cultural and educational facilities of the area. It would be faithful to L'Enfant's vision.

In 1965, the Council completed its work and report. President Johnson, by Executive Order, established the President's Commission on Pennsylvania Avenue, to refine and implement the work of the preceding Council.

It was the forthcoming celebration of America's Bicentennial in 1976, however, that would provide an occasion for the undertaking to restore the area in a bill introduced as the "Federal City Bicentennial Development Corporation Act of 1971." Subsequently in other legislation that would be enacted by the Congress, the reference to the Bicentennial would be eliminated, but determination was made that it was in the national interest to insure the revitalization of this area in a manner suitable in its ceremonial, physical, and historic relationship to the legislative and executive branches of the government. On September 8, 1970, President Nixon said:

> Time is short. The approaching Bicentennial provides us an opportunity to fulfill in this city, at this time, a magnificent vision of the men who founded our Nation, and at the same time to create a standard for the rest of the Nation by which to measure their own urban achievement, and on which to build visions of their own. If we do not do this work now, other men will do it for us at another time. Let us do it now.

The Pennsylvania Avenue Development Corporation

On September 19, 1972, the Subcommittee on Parks and Recreation of the Senate Committee on Interior and Insular Affairs held a hearing on H.R. 10751, introduced by Representatives Saylor and Aspinall, and its companion bill, S. 4002, introduced by Senators Jackson and Allott, providing for the establishment of the Pennsylvania Avenue Development Corporation, whose mission would be to restore this majestic concourse.

In his statement before the Committee, Secretary of the Interior, Rogers C. B. Morton, endorsed S. 4002, the product of extensive consultation with interested Federal agencies, the Government of the District of Columbia, private citizens and members of the Congress, and offered strong support for legislation that would provide a vehicle for the renewal and revitalization of Pennsylvania Avenue.

On September 28, 1972, S. 4002 was ordered reported by the full Committee. On October 16, 1972, the Senate took up House-passed bill, H.R. 10751, and passed it, amended. On October 17, 1972, the House concurred in the Senate amendments, with amendments. The following day, October 18, the Senate concurred in the House amendments. On October 27, 1972, H.R. 10751 was approved by Congress (Public Law 92-578) directing the Corporation to prepare a plan for redeveloping the area adjacent to Pennsylvania Avenue between the Capitol and the White House in a manner suitable to its ceremonial nature and historic past.

On November 19, 1974, the Corporation submitted the completed plan to the Congress. Following a review period of 60 legislative days, the plan became effective on May 19, 1975, embodying a combination of public improvements together with investment from the private sector in development projects compatible with the plan.

The function of the corporation involved the use of Federal funds to buy and lease certain properties and to oversee the changes such as repaving and landscaping the Avenue, preserving the designated landmarks, developing a residential community and other people-oriented uses, changes to facilitate traffic circulation, to increase pedestrian use, and to add amenities such as trees, street furniture, new lighting and additional public open spaces.

Authorization of appropriations for the Pennsylvania Avenue Development Corporation falls under the jurisdiction of the Senate Committee on Energy and Natural Resources. The National Park Service has the responsibility for the maintenance, preservation, and interpretation of all that is revered in Washington, including administration of the Pennsylvania Avenue National Historic Site.

The final phase of the Pennsylvania Avenue development plan is expected to be completed in 1994 with the opening of the proposed new International Cultural and Trade Center in the heart of the Federal Triangle.

The reopening in 1986 of the historic Willard Hotel, which had stood vacant for 18 years, provided one of the most stunning transformations for the Pennsylvania Avenue Development Corporation. The Willard became known as the "stopping point for those who make history." Here President Lincoln had stayed, as well as other Presidents and notables of the bygone era. Here Julia Ward Howe wrote the lyrics to the "Battle Hymn of the Republic". Here Reverend Martin Luther King, Jr. reviewed his "I Have a Dream" speech just hours before his memorable appearance at the Lincoln Memorial.

Pennsylvania Avenue, America's Main Street

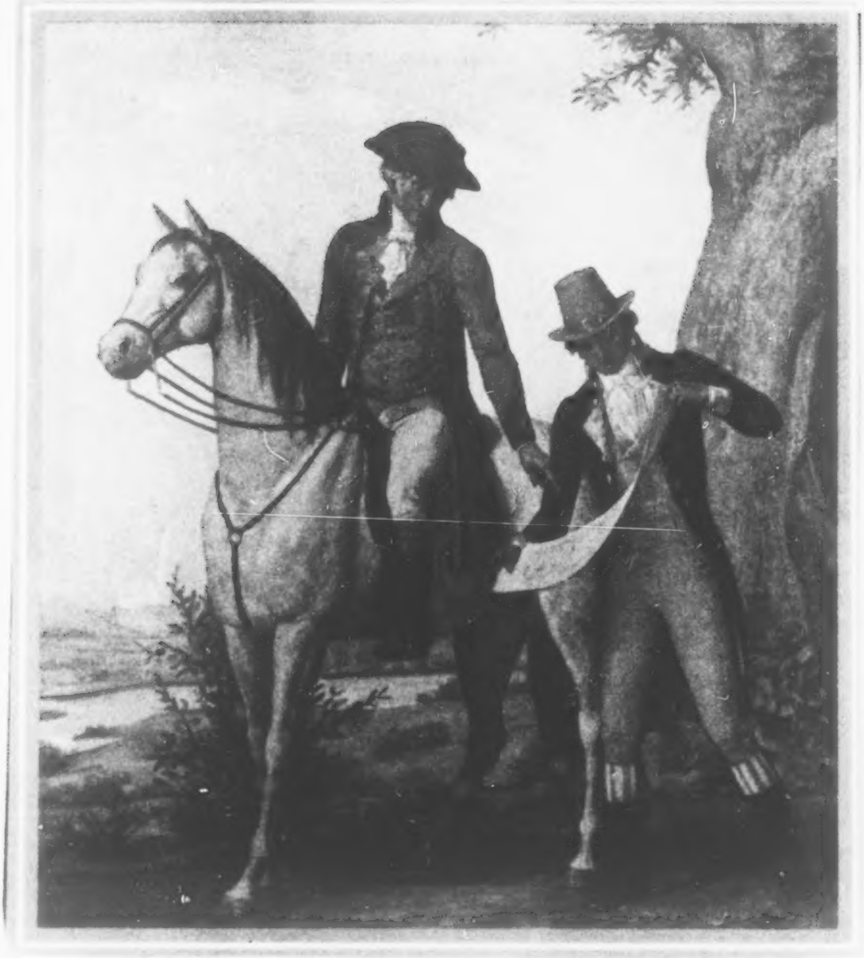
Paris has its Champs Elysees. Rome has its Via Veneto. Lisbon has its Avenida de Liberdade.

Now, in the Nation's Capitol, after a decade of restoration, Pennsylvania Avenue has become the grand boulevard of the nation, a truly vibrant Avenue of the Presidents, the monumental thoroughfare that links the White House and the Capitol, a majestic street fit for the Nation's and City's most significant ceremonial event, the presidential inauguration parade every four years.

It has become an avenue of museums, art galleries, a theatre, an exciting blend of new Federal and private office buildings and historic turn-of-the-century structures and hotels, painstakingly restored, the District's City Hall, and the new Embassy of Canada.

There are splendid shops, pavilions, and restaurants, fountains and mini-parks, wide side walks and rows of willow oaks, sweeping vistas and plazas that constitute the heart of the Federal presence in the city of Washington.

It is a modern visual delight for all its residents and visitors that not only evokes the spirit of Pierre Charles L'Enfant but will be a constant reminder of the vision of our founding fathers and the rich heritage of our Nation for all future generations.



French-born architect and engineer, Pierre [illegible] L'Enfant, shows his plans for the new [illegible] capital [illegible] in the Washington [illegible] June 1791.

[illegible] the United States [illegible] National Society of the Daughters of the American Revolution and the United States Capitol Historical Society, "The American Story in Art."

First Two Hundred Years of Federal Energy Organization

1785 - 1989

APPENDIX I.

This section is an excerpt from a Committee Print prepared in the 93rd Congress at the request of Chairman Henry M. Jackson pursuant to S. Res. 45, the National Fuels and Energy Policy Study, entitled "History of Federal Energy Organization."

This report describes major policy decisions that shaped Federal role in energy matters as well as the impact on American society from the ever increasing use of energy throughout our nation's history from the post-Revolutionary period.

93d Congress }
1st Session }

COMMITTEE PRINT

HISTORY OF FEDERAL ENERGY ORGANIZATION

A STAFF ANALYSIS

PREPARED AT THE REQUEST OF

HENRY M. JACKSON, Chairman

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE

PURSUANT TO

S. Res. 45

A NATIONAL FUELS AND ENERGY POLICY STUDY

Serial No. 93–19 (92–54)

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SENATE RESOLUTION 45

NATIONAL FUELS AND ENERGY POLICY STUDY

This publication is a background document for the National Fuels and Energy Policy Study authorized by Senate Resolution 45, introduced by Senators Jennings Randolph and Henry M. Jackson on February 4, 1971, and considered, amended, and agreed to by the Senate on May 3, 1971.

The resolution authorizes the Senate Interior and Insular Affairs Committee, and ex officio members of the Committees on Commerce and Public Works and the Joint Committee on Atomic Energy, to make a full and complete investigation and study of National Fuels and Energy Policies.

This document is published to assist members of the committee and other interested parties in their understanding of the issues inherent in the formulation of a long-term National Energy Policy which assures the continued welfare of the Nation, including balanced growth, safeguarding and enhancing the quality of the environment, and national security.

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MEMORANDUM OF THE CHAIRMAN

To Members and ex officio members of the Senate Committee on Interior and Insular Affairs' National Fuels and Energy Policy Study (S. Res. 45):

The need for coherent and rational national energy policies is increasingly understood. What energy policies we have today have developed haphazardly in response to other needs and objectives of national policy over almost two hundred years.

Inevitably, Federal energy organization today reflects this random development of energy policy throughout our history as a nation. It is fragmented, uncoordinated and largely unrelated to the energy policy needs of the present.

There is an intimate relationship between national energy policies and the organizational structure which exists to recommend, interpret and implement those policies. Federal energy agencies are the instruments by which the policy expressions of the Federal Government are translated from concepts into realities. As we develop a more rational body of fuels and energy policies, we must also create organizations with new mandates to implement those policies.

Before attempting to reshape the Federal role in energy matters, we can profit greatly from an examination of the considerations underlying the creation of existing organizational arrangements. With this in mind, I requested the preparation of this history of the principal events which have shaped the historical development of Federal energy organization.

This document includes both a chronological listing of major policy decisions regarding Federal energy agencies and programs and a narrative history of the development of energy organizations. Both are classified according to the major areas of national policy within which most energy related decisions have been made in the past.

This report was prepared by Mr. Bruce Murchison and Mr. Grover Dunn, students of Principia College, Elsah, Illinois, under the direction of Mr. Daniel A. Dreyfus Professional Staff Member for the Committee and Engineering Consultant to the Fuels and Energy Study. Messrs. Murchison and Dunn contributed their time as part of an informal intern program, and the Committee is grateful for their interest and diligence.

I have directed that the report be printed at this time for the benefit of Senators and others concerned with energy organization issues pending before Congress.

HENRY M. JACKSON, *Chairman.*

INTRODUCTION

The development of American society may be traced in the ever increasing use of energy to provide for human wants, to achieve national goals, and to shape a unique life style.

In 1850, the United States had about one-third of a horsepower of prime mover capacity per capita. The average work week was six 11-hour days. The average worker's annual wage was $300. During the next 50 years, expansion of railroad and industrial machinery raised the ratio to just under 1 horsepower per capita, which was reflected in slightly shorter work days and an increased annual wage of $438 in 1900.

In the next half-century automotive transportation came into its own, central electric power stations became commonplace, and machinery replaced work animals on the farm. In 1950, there were 31 horsepower per capita. By that time the average work week had been reduced to 40 hours and wages increased to $3,000.

In 1970, the trend continued toward an increasingly energy intensive society, the Nation had 100 horsepower of prime movers per capita. Wages for a 40-hour week had increased to $6,240.

The intensive use of energy in the United States has resulted in the growth of massive energy industries which, because of their economic and financial size alone, are critically important to national welfare. Moreover, beyond the significance of the jobs, capital wealth, and economic activity involved in fuels and energy systems, the energy industries provide commodities which are essential to the life support systems of a technological society. The patterns of housing and commerce in our major metropolitan areas depend upon transportation systems which consume huge quantities of fuels and electricity. Modern homes and business offices are no longer the self-sustaining units of colonial times; many of them are unlivable without gas and electrical services. Modern government and commercial business cannot be transacted without sophisticated communications and transportation systems which rely on energy. American agricultural industries are the most energy intensive in the world. Without vast quantities of fuel for farm machinery, our population could no longer be sustained.

The critical influences of energy industries upon the public safety, health, and welfare and upon national economic strength and security have attracted the attention of local, State, and Federal governments.

> The Federal involvement in the Nation's energy system has been an evolutionary development, the roots of which predate the inception of the Federal Government itself. Federal policy which affects the energy industries has influenced and has, in turn, been influenced by their growth. This association, however, does not reflect a conscious effort on the part of Federal policymakers to manage the Nation's energy system in any comprehensive sense. Most Federal

> policy with energy significance was not formulated primarily as "energy policy." It was the result of Federal responsibilities and activities which were primarily concerned with other objectives of Government.
>
> Some of the earliest roots of associations between the energy industries and the Federal Government grew out of the industries' interest in publicly-owned natural resources such as the fuel resources of public lands and hydroelectric power sites. The significance of energy resources to the fundamental Federal responsibility for national defense also was of early concern. As Federal responsibilities in the areas of regulation and development of the economy, technological research and development, public health and safety, and environmental management increased, the essential role of energy in each area inevitably led to a Federal energy policy.[1]

As Federal policy decisions have been made which have consequences for the Nation's energy system, a variety of Federal agencies have acquired responsibilities regarding energy. Some agencies have very specific energy functions. Federal agencies lease publicly owned oil and coal resources, they operate extensive electrical power generation and transmission systems, and they purchase vast quantities of fuels for Federal use. Other Federal agencies implement policies which are specifically directed toward the energy industries, they license hydroelectric and nuclear powerplants, they regulate the safety of pipelines, and so forth. Many other Federal agencies carry out policies which may not have been intended primarily to affect energy but which have very great influences upon the way energy industries behave. Tax policies are an obvious example.

The combined impacts of all of these Federal activities upon the national energy system have never been considered in a coordinated fashion. Each decision over the years has been responsive to some public issue which seldom was considered to be primarily an energy issue. This report identifies six major policy areas within which energy decisions most often have been made; and within which Federal agencies now have energy related responsibilities:

1. Management of Mineral and Fuel Resources of the Public Lands;
2. Water Resources Management;
3. Economic Development and Regulation;
4. National Security Policy;
5. Health, Safety and Environmental Management; and
6. Research and Development.

In the following sections of the paper, a narrative description is presented of the development of energy related policies within each of these areas. At the conclusion of the paper, a chronological listing is presented of the principal Federal policy decisions—statutes, legal decisions, executive orders, and so forth—which have contributed to the development of the Federal energy organizational structure. Each item in the chronology is coded indicating to which of the foregoing policy areas it is primarily related.

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[1] Daniel A. Dreyfus, *Federal Energy Organization* (Washington, U.S. Congress; Senate Committee on Interior and Insular Affairs, 1973), p. 29.

This history provides insights into the development both of Federal organization and of Federal policy. It will be important, as new coordinated energy policies are formulated and appropriate organizational arrangements designed, to realize that many of the other objectives which prompted the creation of existing agencies are still valid. In seeking resolutions of current issues, care must be taken to preserve the valuable resolutions of past issues. Energy is an important factor in national well-being, but it is not the only factor.

Perhaps the most important conclusion to be drawn from this study is that Federal energy policy has developed in a piece-meal, *ad-hoc* fashion characterized by little or no regard for either the long-term or short-term energy consequences.

There has never been, nor is there now, a national energy policy in any meaningful sense. Rather, the Federal Government pursues uncoordinated and complex national security; research and development; water, land and mineral resources; environmental, health and safety; and economic policies which as a byproduct have profound energy consequences. Today, with the realization that comprehensive and coordinated energy policy has taken on new and increasing importance, two interdependent steps toward a viable energy policy will be necessary. First, the Federal Government must abandon the "consequence" approach to energy matters and develop an "objective" approach to energy problems. Second, to implement this new policy the Federal Government must abandon the piecemeal, *ad hoc* organizational and planning arrangements which today serve as an energy organization, and reorganize itself in a manner which is responsive to the critical needs of the current energy crisis.

As a final caution, however, today's preoccupation with energy ought not result in inflexible, narrow visioned organizational arrangements; arrangements which have been designed with concren only for the energy issues and energy objectives of the moment. The history presented in the following sections contains too many examples of such single objective decisionmaking. The energy consequences of past nonenergy decisions have contributed to the energy crisis. The nonenergy consequences of current energy decisions ought not become contributors to tomorrow's crises.

I. MANAGEMENT OF MINERAL AND FUEL RESOURCES OF THE PUBLIC LANDS

The Federal Government's involvement in the Nation's energy system has stemmed from a variety of governmental concerns. One of the earliest and most direct of these concerns is the proprietary responsibility of the Federal Government for management and development of the mineral resources of the public lands. The coal, petroleum, and uranium resources under public ownership has proven to be immensely significant to the Nation's energy industries. Public land policy, therefore, has proven in some important respects to be Federal energy policy.

Until about 1900, the Federal lands were chiefly viewed as a source of revenue or as opportunities to induce industrial development and permanent settlement. American public land policy had its formal beginning with the enactment of the famous Land Ordinance of May 20, 1785.[1] The Continental Congress reflected earlier British and Colonial attitudes by reserving a third of the gold, silver, lead, and copper produced on the lands for disposal by the Congress. Although the reservation of lead might possibly have been for military reasons, no threat to the young Nation's security then was imminent. It seems more logical to assume that the Congress saw the mines as a potential source of revenue for the Nation, which was still recovering from war.

Security considerations were a larger factor in the enactment of a measure in 1807 which reserved known lead deposits from disposal and authorized the President to lease lead mines.[2] Although the act was primarily a revenue measure, England and France posed a threat great enough to warrant legislation which would insure an adequate lead supply, crucial to ordnance logistics at the time. Indeed, by 1820, the supervision of the public mines had come under the control of the Ordnance Bureau of the War Department. The Bureau continued to have an important policy role in this area until 1840 although security became a less important factor in public land policy.

By 1820, the significance of management of the public lands had been recognized in the formation of standing committees in both the House (1805) and the Senate (1816). Early administrative responsibilities for the public lands resided in the Treasury Department, reflecting the basic revenue-producing objective of the policy of leasing public lands. In 1812, the General Land Office was established as a bureau within the Treasury Department.[3] The administrative establishment for surveying, managing, and disposing of the vast acreage of the public domain was concentrated within the Office.

There were some successes and probably more failures under the early leasing policy. An early experiment with leasing lead mines in Missouri ended in disaster, and Congress authorized the sale of those mines in 1829.[4] The Government had more success in the 1820's with an area in southwestern Wisconsin and northwestern Illinois. However, the Government leasing program deteriorated rapidly after 1829. This was due to a combination of factors. First, the lead mining areas began to suffer from a depression. Lead had been overproduced, and food prices were on the rise. Second, pressure for the sale of lands to be used for agricultural production increased. A scandal, arising from the passage into private ownership of three-fourths of the public mineral lands in the western half of the Wisconsin Territory, also dealt the leasing program a severe blow. Ultimately, the lack of administration of the leasing program on the part of the Federal Government was probably a main cause of the program's downfall.

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[1] The Land Ordinance of 1785 is in Commager (ed.), *Documents of American History*, pp. 123–124.
[2] 2 Stat. 448 (1807).
[3] 2 Stat. 716 (1812).

One significant Supreme Court case, *United States* v. *Gratiot* took place in 1840 during this period of Federal leasing. The defense argued that the Congress had no constitutional right to authorize the leasing of mineral lands.[5] The Court ruled unanimously that Congress had unlimited power over the public domain including the right to authorize the leasing of mineral lands. Thus, the act of 1807 was upheld.

The premise that the disposal of public lands to encourage private exploitation would result in the greatest benefits to all gained almost universal acceptance in the 1840's. An act in 1846 authorized the sale of the lead mines in Illinois and Wisconsin and granted preemption rights.[6] This marked the beginning of the virtual wholesale giveaway of valuable public mineral lands. Congressional policy had clearly evolved into one of using the public lands to induce expansion and settlement rather than to raise revenue. This policy is further reflected in the transfer in 1849 of the General Land Office from the Treasury Department to the newly created Department of the Interior. Even greater exploitation of mineral lands occurred under measures such as the Homestead Act[7] which were intended to promote widespread distribution of land ownership among the public. Great tracts of mineral lands passed into the hands of speculators under the guise of agricultural ventures. The Government's efforts "to check this perversion of the public land acts"[8] were sporadic and ineffective.

The discovery of gold in California in 1848 and the subsequent mining booms on the public lands of the West lent new significance and public attention to the inadequacies of law and policy regarding public proprietorship over the public mineral lands. Early mining statutes largely ratified and confirmed the traditional practices of the mining communities which began as trespassers on the public domain. Congress seemed content to let the mining camps establish their own law based on mining tradition. Proposals to exert some control came up from time to time, but the Congress was virtually inactive on the whole question of the California gold mines from 1850 until 1866. President Fillmore also adopted a wait-and-see attitude concerning policy direction for the mineral lands.[9] The only discernable policy during this period was one of noninterference. The end of the Civil War brought about a slight change of mood. There were proposals made to once again use the mineral lands as a source of revenue to help recover from the war. Initially, nothing came of these proposals.

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[4] 4 Stat. 364 (1829).

[5] 14 Peters U.S. 526 (1840).

[6] 9 Stat. 37 (1846).

[7] 12 Stat. 392 (1862).

[8] Robert W. Swenson, "Legal Aspects of Mineral Resources Exploitation," *History of Public Land Law Development*, a report written for the Public Land Law Review Commission (Washington: Government Printing Office, 1968), p. 708.

[9] Swenson, p. 713.

Finally, Congress formalized the policy which it had favored during those years of inaction by passing the Mining Act of 1866, which declared the public domain to be "free and open" to exploration for minerals and for mining.[10] This policy continues to this day except for withdrawal of and leasing of certain nonmetallic minerals (particularly oil and gas). J. W. Frey, writing on mineral development policy some 70 years later, said that ". . . anyone has a right to such (public) land for minerals, and as a discoverer has a right to keep them. The owner of the land fee has been almost without any legal restrictions as to exploration or exploitation." [11] Two acts subsequent to the 1866 act are important. The Placer Act of 1870 limited the size of a placer claim.[12] The General Mining Laws of 1872 clarified some of the vagueness of the 1866 act. Also, although the basic free and open mining policy was contained, the 1872 act made some changes, the most significant of which simplified the procedure for obtaining patents.[13] As mining policy became more formalized, the Geological Survey (1879) and the Bureau of Mines (1910) were established in the Department of the Interior to oversee the Federal interest in mineral resource development.

The particular problems of fuel minerals led to the development of special policies regarding coal, oil, gas, and more recently uranium. However, these policies were developed through piecemeal legislation which failed to cope with the broad policy implications of disposal of the fuel minerals.

Under the Coal Lands Act of 1873, lands known to contain valuable coal deposits were initially sold in small tracts for mining purposes.[14] There is no clear reason why Congress followed a policy concerning coal which was different from that policy governing the precious metals Perhaps Congress felt that there was more potential to raise revenue with coal because it was more easily discovered.[15] Regardless of the rationale for such a policy, the practice was not to continue much past the turn of the century.

The conservation movement under the Theodore Roosevelt administration began to focus attention upon wasteful practices in the exploitation of the public domain. Many millions of acres of coal lands had passed into private ownership by 1900. Much of this land had been obtained fraudulently by coal and railroad companies who made entries in excess of legal acreage limitations by using agents or by obtaining coal lands under agricultural land statutes. The acreage limitations in the 1873 act prevented feasible commercial development in some types of coal fields and, in that respect, encouraged fraud. Roosevelt wanted Congress to act. In 1906, when no legislation was forthcoming, the President directed the Secretary of the Interior to withdraw from all forms of entry over 60 million acres of known coal lands. The withdrawals were questionable on constitutional grounds. However, the President continued to urge Congress to pass legislation which would end abuses of public land law and which would begin to conserve the Nation's mineral resources. Finally in 1909, Congress enacted a law reserving for the Government the rights to minerals underlying agricultural land entries.[16] This concept opened the way to later mineral leasing policies.

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[10] 14 Stat. 251 (1866).

[11] J. W. Frey, "The Open-Door Policy of Mineral Development," *Elements of a National Mineral Policy* (New York: The Mineral Inquiry, 1933), p. 71.

[12] 16 Stat. 217 (1870).

[13] 17 Stat. 91 (1872).

[14] 17 Stat. 607 (1873).

[15] Swenson, p. 725.

After the advent of the first commercial well in Pennyslvania in 1859, petroleum speculation and production began to expand and to shift from the Appalachians to western locations. Oil mining on the public domain first came under the authority of the Placer Act of 1870, since oil was defined as a mineral deposit. After several years of debate and contradictory rulings by the Department of the Interior, Congress removed any doubt that oil mining entries on public lands were subject to the placer laws by passing the Oil Placer Act in 1897.[17] However, the law was unworkable because of the nature of oil deposits, especially in the West. The main shortcoming was that an oil prospector had no protection during the time he was exploring until a discovery was made. When word of oil prospecting got out, nonmineral claimants would come in and harrass the prospector. Acreage limitations also made mining inefficient. Obviously the conventional policies and practices regarding mineral entries on the public lands proved ineffective in encouraging and protecting efficient, nonwasteful development of oil.

As in the case of the coal lands, the initial Federal action was a withdrawal of oil lands from entry by President Taft in 1909. Some withdrawals, in fact, had taken place as early as 1904. These tracts were withdrawn from agricultural entry in reality to protect oil prospectors. A large consideration in the withdrawal was the Geological Survey's warning that the western oil lands were passing swiftly into private hands and that the Government would find itself repurchasing the very oil which it had lost through entries.[18] The report must have had quite an impact on Taft who was not likely to abuse his constitutional authority. In January of 1910, the President sent Congress a message urging adoption of legislation to give him the authority to withdraw public lands for conservation purposes. Congress did just that with the passage of the Pickett Act.[19] There was some reluctance to give to the Executive authority which had been primarily and traditionally a legislative function. However, the Congress realized that public sentiment in this matter had been on the side of Roosevelt and was now with Taft. In giving the President withdrawal authority, however, Congress carefully avoided confirming the legality of the previous withdrawals. Also, the withdrawn lands remained open to entry under the mining laws for minerals other than oil, gas, coal, and phosphates. In the decade following the passage of the Pickett Act, nearly all unappropriated public lands were withdrawn from full mineral development. Most of these withdrawals were in the form of naval reserves established to conserve oil for possible fuel for warships. Two were in California, at Elk Hills and Buena Vista Hills, one was the Teapot Dome in Wyoming, and the fourth was the extensive Petroleum Reserve Number Four on the North Slope of Alaska.

The constitutionality of Taft's original 1909 withdrawal was tested in a 1915 Supreme Court case, *United States* v. *Midwest Oil Co.*[20]

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[16] 35 Stat. 844 (1909).

[17] 29 Stat. 526 (1897).

[18] Swenson, p. 732.

[19] 36 Stat. 847 (1910).

[20] 236 U.S. 459 (1915).

The Court upheld the withdrawal pointing out that numerous Executive orders "making reservations for various purposes had been issued without prior statutory authorization from Congress." [21] Congressional inaction, in the opinion of the majority of the Court, implied consent.

The oil and coal lands remained closed to development until 1920 while Congress debated on what policy to follow concerning the lands. One of the main factors in the long delay was what action to take concerning the oil companies which were at various stages of prospecting at the time of the 1909 withdrawal. Many companies had continued with development, speculating that the withdrawal would be declared unconstitutional. Oil company pressure for legislation to provide relief was intense. Eventually, some provisions were passed as a part of the Mineral Leasing Act of 1920.

Between 1910 and 1920, there was constant pressure on the Government to open up the oil lands. Two minor steps toward a leasing policy were taken during that decade. In 1914, Alaskan coal lands began to be leased.[22] The Potash Leasing Act was passed in 1917,[23] mostly because potash was important in the production of explosives for the war.

The Mineral Leasing Act of 1920 [24] was passed when western Senators realized that an exclusive leasing policy was the only way to get the withdrawn lands opened up. The act established the modern policies of issuing prospecting permits and leases for the development of the coal, oil, and gas resources of the public lands. The 36 sections of the act applied detailed specifications and qualifications to the leases. The act also provided for the allocation of the royalties from leased lands; 52½ percent to the reclamation fund, 37½ percent to the States in which the lands are located for education and roads, and 10 percent to the Federal Treasury.[25]

The confusion following the enactment of the Mineral Leasing Act culminated in what became known as the "Teapot Dome" scandal. The passage of the Naval Petroleum Reserve Act later that year (1920) gave the Secretary of the Navy extensive authority over the reserves.[26] In a secret document this authority was transferred to the Secretary of the Interior, Albert B. Fall, who was opposed to any Government involvement with business. In secret and without competitive bidding he leased the Teapot Dome Petroleum Reserve to Harry Sinclair and much of the California reserves to E. L. Doheny under obviously questionable legal authorization.

President Hoover suspended leasing on Government oil lands shortly after he took office in 1929, because wasteful exploitation during the 1920's had brought on fear of an oil shortage. The public domain was again reopened to oil leases in April of 1932 after certain conservation measures had been instituted.

When it became evident that easily accessible petroleum reserves on the continent would not last indefinitely, oil companies began to make plans to develop the reportedly plentiful petroleum deposits offshore on the Continental Shelf. The problem of jurisdiction on the Continental Shelf arose immediately. The main debate focused on ownership of the tidelands, defined as the area extending seaward 3 miles from the coast at the low-water mark. In 1945, President Truman directed the Attorney General to initiate court proceedings which would determine whether the so-called tidelands belonged to the States or the Federal Government. In 1947, the Supreme Court declared the United States to be the owner of the tidelands (more properly, submerged lands) in the case, *United States v. California*.[27] Two subsequent cases also ruled in favor of the Federal Government. However, in the 1952 campaign Eisenhower promised, if elected, to restore control of the submerged lands to the States. As a result, Congress passed the Submerged Lands Act in 1953 [28] which gave the States jurisdiction over their submerged lands and any resources therein. The submerged lands were defined as beginning from the shore at the low-water mark and extending seaward to the States historic boundaries, which varied from 3 to 10½ miles. The Supreme Court case, *Alabama* v. *Texas* (1954), upheld the constitutionality of the 1953 act.[29] In addition, Congress enacted the Outer Continental Shelf act [30] later in 1953. This act reserved Federal control over the lands of the Outer Continental Shelf, which began from 3 to 10½ miles offshore and extended seaward up to 150 miles in some places. A mineral leasing system, similar to the Mineral Leasing Act of 1920 as amended in 1946, was set up. All royalties were to go to the U.S. Treasury. The Bureau of Land Management, which had been created in 1946 in the Department of the Interior by combining the General Land Office and the Grazing Service,[31] was to administer the leasing program on the Outer Continental Shelf as it also administered the 1920 Mineral Leasing Act with respect to the public domain.

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[21] Swenson, p. 737.
[22] 38 Stat. 741 (1914).
[23] 40 Stat. 297 (1917).
[24] 41 Stat. 437 (1920).
[25] *Ibid.*
[26] 41 Stat. 812 (1920).

The advent of the atomic bomb and the enactment of the Atomic Energy Act of 1946 [32] initiated still another energy aspect of public land policy, the mining of uranium on the public domain. The 1946 act reserved for the Government all uranium ores on the public lands. Uranium deposits "were generally found in a type of sedimentary deposit which was potentially valuable for oil and gas. And, one estimate was that as much as 75 percent of the available uranium lands were already under Federal oil and gas leases." [33] Because of the nature of uranium deposits and because the Government had made a reservation on the uranium, initial mining efforts were confused. Swenson explains the basic conflict between the mining laws and the leasing laws which the mining of uranium made obvious:

> The conflict between location and leasing came about because the Mineral Leasing Act, which made certain nonmetalliferous minerals exclusively leasable, made no provision for disposing of other minerals which might be discovered in leased lands. On the other side of the coin, there was no attempt to amend the mining laws so as to provide that mining patents must contain reservations of the various Leasing Act minerals.[34]

Although no one was sure of the legality of their claims, miners began to locate uranium mines. Even before stop-gap legislation to resolve some of the conflicts was passed, the Atomic Energy Commission was issuing uranium leases on Federal lands. In fact the AEC depended upon private industry mining and milling operations both before and after the height of the uranium boom in 1954.

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[27] 332 U.S. 19 (1947).
[28] 67 Stat. 29 (1953).
[29] 347 U.S. 272 (1954);
[30] 67 Stat. 462 (1953).
[31] Presidential Reorganization Plan No. 3 of 1946, 60 Stat. 1097.
[32] 60 Stat. 755, 760 (1946).
[33] Swenson, p. 751.
[34] *Ibid.*

Finally, two acts in 1954 cleared up the situation and also established a new policy direction. The Multiple Mineral Development Act[35] set forth in great detail the concept of multiple use of the public mineral lands while setting up a complicated validation procedure to solve the location-leasing problem. The concept of multiple use was not a new idea in 1954. However, this act was the most significant up to that time to incorporate this modern mineral development policy concept. The passage of the Atomic Energy Act of 1954,[36] relinquished the Government's reservation of uranium and validated all previous locations. It also established special procedures for leasing of the uranium lands by the Atomic Energy Commission to private industry which in turn sells the ore or concentrates back to the Commission.

There are several continuing areas of controversy concerning mineral development on public lands which have an impact on energy. One area of debate is the conditions under which the Department of the Interior has the right to cancel oil and gas leases which have been mistakenly issued in violation of leasing laws. A 1964 Supreme Court decision cleared up some of the controversy by upholding the Department's right to cancel a lease when a violation exists at the time it is issued.[37] There has also been continuing conflict over the withdrawal of mineral lands from entry for such other purposes as wildlife refuges. Another unresolved issue is the appropriate policy regarding the leasing of the extensive oil shale deposits on public lands in Colorado, Utah, and Wyoming. Since estimates have placed a value upon oil shale deposits in the order of trillions of dollars, extensive research was needed before policy formulation can take place. Secretary of the Interior Udall, in 1964, established an advisory board of private citizens to study the oil shale situation and submit recommendations. No final resolution of oil shale leasing policy has yet been made. The extent and terms of leases in any eventual leasing program will have significant influence on the economics and uncertainties of an already risky research and development undertaking.

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[35] 68 Stat. 708 (1954).

[36] 68 Stat. 919 (1954).

[37] *Boesche* v. *Udall*, 373 U.S. 472 (1963).

II. WATER RESOURCES MANAGEMENT

The history of Federal Government involvement in water resources and power development is the story of a long evolutionary process involving the gradual expansion of the Federal role. Federal policy evolved out of the necessity for control of navigable waters for commerce followed by the creation of the waterway improvement program, the reclamation program, and the flood control program. Also an integral part of this history is the history of technological achievement of electric power industry and the history of the conservation movement. These factors taken together form the background for the current Federal Government role in water power development.

The origins of the Federal involvement with water resources and power development can be traced to the Treaty of Paris of 1763,[1] which provided for freedom of navigation on the Mississippi. The Treaty of Paris of 1783,[2] which ended the Revolutionary War, guaranteed that rivers would be open and would remain forever free. This early period was marked by the attitude that the rivers, which were virtually the only source of transportation on the American Continent and thus vital to commerce and expansion, were to remain free for use by all. Early settlers were reminded that in feudal Europe the feudal barons had used river taxes as a significant source of revenue. Economic control of the rivers seriously hampered commerce, consequently, Americans were determined that the rivers should remain open and free to commerce. This philosophy remains a vital force in modern public works planning.

One of the major drawbacks of the Articles of Confederation [3] was the delegation to the States of the authority to regulate commerce. The result was rivalry and discrimination culminating in out-and-out trade wars between the States. The lack of coordination in the regulation of commerce and the increasing sectional antagonisms prevalent in early America, the situation caused Hamilton, in the Federalist,[4] to draw parallels disparagingly similar to conditions which had rendered the waterways of the German Empire useless.

The first definitive policy statement made by the American Government was contained in the Northwest Ordinance of 1787 which stated that the streams of the new territories were "common highways and forever free."[5] This principle was extended to all new territories by various ordinances (1790, 1803).

The Constitutional Convention translated the reaction against the prevailing commercial chaos and sectional antagonism into specific clauses in the new Constitution which embodied the freedom of navigation and commerce principles.[6] Although the scope of the Federal Government's role in controlling navigable waters has been the subject of debate over the years, that the Federal Government has jurisdiction over commerce and transport on navigable waters has not been seriously challenged.

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[1] William J. Hull and Robert J. Hull, *The Origin and Development of the Waterways Policy of the U.S.* (Washington: National Waterways Conference, 1967).

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*

[5] Commager (Ed.), *Documents of American History*, pp. 128–32.

[6] U.S. Constitution, Art. I, Sec. 8, Sec. 9, in Hull and Hull.

The Federal waterway improvement program comprises the second step of the evolutionary process leading to Federal involvement with water power development. The waterway improvement program resulted from the failure of the new constitutional provisions to seriously diminish sectional rivalry. The leaders of the new Nation saw improvement of the means of transport, communication, and commerce as the most desirable method of uniting the Nation and healing the sectional differences. This attitude was well expressed by President Madison in his 7th Annual Message to Congress in 1815.[7]

Concrete action on public improvements was taken by the First Congress in 1789 when it authorized the Treasury to assume the costs of lighthouses, beacons, buoys, and public piers which were already in existence or under construction.

Thomas Jefferson, known for his strong interest in limiting the scope of the Federal Government, nonetheless endorsed in his Annual Message of 1806 a program to develop the roads, rivers, and canals of the Nation based on the conviction that these would help cement the disparate regions. Jefferson's Secretary of the Treasury, Albert Gallatin, submitted his far-sighted Report on Roads and Canals in 1808. The report is notable in that it advocated a wide-ranging plan of improvement projects at public expense, declared that the Federal Government must by default initiate it, and declared that the Federal Government had the resources and the legal right to carry out such a program. Little tangible result was forthcoming (except for the National Road) primarily because of the adverse economic impacts of the Embargo Act and the War of 1812 and the widely held constitutional theory that the Federal Government did not have the right to engage in such programs.

The lack of clear constitutional authority continued to override pleas of Westerners for more improvements. In many cases improvements were made at private or State and local expense, as was the case with the Erie Canal (undertaken in 1825).

John C. Calhoun, Monroe's Secretary of War, made the first real headway in increasing Federal involvement. At the request of the House, Calhoun, with the help of the Army Corps of Engineers, undertook a report on necessary improvement for the purpose of national defense. But Calhoun went further by proposing a broad plan for building roads and canals, and improving inland rivers. The plan was rejected because of Monroe's constitutional objections and the nebulous nature of Calhoun's financing scheme. Nevertheless the Calhoun report is noteworthy because this was the first time that internal improvements were made more palatable in the name of national defense and for the fact that Calhoun's selection of the Corps to be responsible for carrying out the projects initiated the Corps' responsibility which exists today.

In 1824, as a result of continuing internal pressure from the Western States and territories as well as businessmen anxious to improve commerce, the Congress adopted the first river improvement bill and the first harbor improvement bill and in 1826 passed the first of a long line of "Rivers and Harbors" bills.

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[7] Act of September 19, 1890 (26 Stat. 454).

Henry Clay proposed in 1832 a plan to link together the public lands and internal improvements by utilizing the sale of public lands to finance the improvements. However, President Jackson vetoed this measure. The relationship between public lands and improvement policy was not made again until the 1880's.

During the pre-Civil War years the Congress confined its authorizations to "clearing and snagging" operations as aids to navigation. In the 1850's public support for flood relief in the Lower Mississippi Valley prompted a series of reports on remedies. One of these, submitted by Charles Ellet, Jr., in 1852, proposes a more complex system than just the "levees only" approach that had become the Corps trademark. His report was a forerunner to latter multipurpose planning. However, Ellet's report was overshadowed by a monumental report submitted by Captain A. A. Humphries and Lieutenant H. L. Abbot entitled a "Report Upon the Physics and Hydraulics of the Mississippi River." Humphries, who became Chief of Engineers, continued the repression of the multipurpose river development concept (a policy which lasted another 50 years) and perpetuated the "levees only" doctrine which was to pervade Corps flood planning for another 75 years. Recurrent flooding, causing significant loss of life and property, eventually prompted President Hayes to create a Mississippi River Commission, which, although a Federal body, was limited to technical assistance to local and State governments.

After the Civil War, the demand for river development increased and the Government responded in its now characteristic fashion, confining its improvement work to narrow navigation-oriented goals.

A resurgence of vigorous interest in improvement programs began about 1880 prompted by the public dismay over the increasingly monopolistic railroad industry. The railroads had gained a stranglehold on commerce. Consequently the Congress sought to counterbalance the railroads by providing cheap water transportation. This approach was expressed in the 1882 appropriations bill. This new waterway policy was deliberately intended as a corollary to the Interstate Commerce Act passed in 1887.

Waterways improvement policy had its most direct impact on Federal water power development through the principle that as a result of the unquestioned right of the Federal Government to control navigable waterways the Federal Government has the right to restrict obstructions to navigation from being built in navigable waters.

In 1890, the Congress expressed this principle by prohibiting the creation of any obstruction, not affirmatively authorized by law, on the navigable waterways. The Rivers and Harbors Bill of 1899,[8] set up a procedure for approval by the Corps and the Secretary of War of projects or works on navigable streams and for consent of Congress where interstate waters are concerned. The significance of this policy statement lies in the fact that it established the basis upon which Federal jurisdiction and control over the construction of dams by the newly emerging power industry was justified.

It is important to note that the chief deterrent factor to expanded Federal waterway policy during the 1800's was the constitutional question of Federal jurisdiction. This argument formed the basis for opposition to Federal water power development.

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[8] Act of March 3, 1899 (30 Stat. 1121).

The next step of the evolutionary process of the Federal water policy and power development was the Federal involvement in irrigation. The roots of the reclamation program are found in the westward movement. As consequence of the panic of 1837, the Western lands and in particular a "free soil policy" began to take on the appearance of a panacea for the overcrowding and unemployment in Eastern cities. Horace Greeley's famous editorial advise to go west, written in 1837, was the opening shot of the "free soil" movement. While the history of the westward movement is interesting, it is in itself extraneous to this discussion of energy. It is enough to say that this movement eventually led to the passage of the Homestead Act in 1862.[9] Whatever the merits of the act, the effect of it is undeniable. After the Civil War the Western lands were rapidly settled. Naturally the best land was settled first leaving the "Great American Desert" to be settled last. (The "Great American Desert" comprises much of the land of the Great Plains and the Southwest.) These lands were climatically arid or semi-arid. Consequently, irrigation became a necessity of life to the settlers. At first private enterprise was able to provide the capital and initiative necessary to cope with the irrigation problem. The Federal Government became involved in 1866 by granting the rights-of-way for construction of canals and irrigation ditches across public lands. The Federal Government increased its role in 1877 with the passage of the Desert Land Act.[10] This act, which applied to desert lands defined as lands exclusive of timber and mineral lands which will not produce agricultural crops without irrigation, did not provide any direct financial aid to the settlers but it increased the allowable allotment of lands to each settler with the provision that irrigation must be initiated.

By 1887, it became apparent that the irrigation of the arid lands was not proceeding smoothly. The period between 1887–1893 was a boom and bust period for private investors for a number of reasons: (1) the more lucrative investment opportunities in the East; (2) the speculative nature of many of the projects; and (3) the increasing difficulty of irrigation projects and their increasing costs. As a result, the West began to look to the Federal Government for relief. Congress became interested, and in 1888 it authorized the Geological Survey to determine the extent to which arid lands could be reclaimed and to reserve lands that might be needed as sites for reservoirs and canals.[11] John Wesley Powell, then Director of the Geological Survey, used this opportunity to withdraw 127 reservoir sites and 30 million acres of land. Congress limited this withdrawal in 1891 to land actually needed for construction and maintenance of facilities.

In 1894, the Congress in an effort to placate the demands of the West and also to satisfy constitutional doubts adopted a plan set forth originally by the Interstate Irrigation Congress in Salt Lake City in 1891. This plan called for vast tracts of public lands to be given to the States to sell, with the revenues to be used for irrigation projects. It was enacted in the Carey Act (1894).[12] The Federal Government offered 1,000,000 acres of irrigable land and eventually seven States accepted about 600,000 acres. The Carey Act was a case of too little too late as the sale of land was insufficient to finance adequate reclamation projects.

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[9] Homestead Act, 1862 (12 Stat. 392).

[10] Desert Land Act, 1877 (19 Stat. 377).

[11] Irrigation Investigation Act, 1888 (25 Stat. 526).

[12] Carey Act, 1894 (28 Stat. 377).

Meanwhile, support was increasing for a plan calling for direct Federal assistance for reclamation projects. In 1901 when Representative Francis G. Newlands (Nev.) proposed a measure which effectively combined water resources policy and public lands policy. The measure contained two important features: (1) it utilized a fund created out of revenues from the public lands to finance major water projects making possible new family-sized irrigated farms and providing for repayment to the fund in the form of water user charges, and (2) it envisioned giving the Interior Department complete discretion over utilization of the funds. The first provision was designed to make reclamation programs self-supporting. The second provision, which was eventually compromised, was designed to avoid the log-rolling process inevitable in congressional approval of individual projects. Aided by strong support from a new and sympathetic President Theodore Roosevelt, the pro-reclamation forces were able to reduce the fight to a trade-off between Eastern public works projects and Western irrigation projects. This trade-off was underscored by Senator Thomas Carter (Mont.) who filibustered and killed a Rivers and Harbors Bill in late spring 1901. The Reclamation Act was passed in 1902.[13] This law forms the basis for the modern reclamation program.

Subsequently the Reclamation Service was established in 1903 and made a bureau under the Interior Department in 1907, and was reorganized in 1924 to become the Bureau of Reclamation.

Along with Federal Government action, another major aspect of the evolutionary history of the Federal water policy and power development is the history of the electric power industry. In 1882, when Thomas Edison built and began operating his Pearl Street electric generating station in New York, he demonstrated the feasibility of central district power stations. The Pearl Street station was the landmark in a dawning age of power development. Subsequent inventions such as the alternating current transformer (1886) and the polyphase motor (1888) made possible long-distance transmission of electric power generated at remote places. In 1901 the Government granted the Secretary of the Interior the discretionary power to authorize rights-of-way for power distribution lines on a limited scale and through limited locations.[14]

By 1902 the Census Bureau reported that significant growth had taken place in the electric industry. The technology was present in 1909 to construct a 700-mile line. The Communications and Power Rights-of-Way Act of 1911, granted authority to department heads to grant rights-of-way over lands they administered.[15] Prior to this time Congress had to authorize each such grant.

With the advent of extensive use of electricity, electric use and the development of transmission systems, the hitherto remote rivers and shoals were looked upon as prime sources for power sites. The potential worth of these sites was recognized:

> The advent of long distance transmission revolutionized the electrical industry technically and financially, plunged it deep into national politics, and brought water power into

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[13] Reclamation (Newlands) Act, 1902 (32 Stat. 388).

[14] Right-of-way for Power Distribution, 1901 (31 Stat. 790).

[15] Communication and Power Right-of-Way Act, 1911 (36 Stat. 1253).

> sharp competition with coal, oil, and gas in the generation of electricity. Worthless falls and shoals in rivers remote from commercial centers possessed a million dollar potential that led to a veritable gold rush to obtain ownership.[16]

The statistics illustrate this point. Prior to 1901 only 13 grants for dam sites had been made. Between 1901–1906, 17 grants were made. In 1906–1907, more than 40 requests and authorizations were made.

To the pressures demanding increased Federal participation in waterway development, reclamation, and flood control in the period between 1889–1920 were added the pressure of the conservation movement led by men like Gifford Pinchot and Frederick Newell. The conservationists wanted the Federal Government to protect the people against monopoly interests and to protect the Nation's natural resources from devastation. The efforts of the conservationists culminated in the Federal Government's acceptance of control over water power development.

To millions of conservationists, power company officials, and historians, Muscle Shoals symbolizes the dawning of the era of direct Federal control over water power development. In 1898 Representative Joseph Wheeler (Ala.) acting in accord with the 1890 Rivers and Harbors Act requiring congressional approval of projects which might interfere with navigation, submitted a bill to allow the Muscle Shoals Power Co. to construct and operate canals and powerhouses along the famous and unnavigable Muscle Shoals section of the Tennessee River. This bill was treated as another local public works type project and consequently passed easily. However, two significant provisions were added to the final version. By striking out the contentions that Muscle Shoals was unsuited and unused for navigation and adding a clause fixing charges for water use the case for Federal jurisdiction over power development was recognized.

Four years later the project of now doubtful feasibility had not been completed. A new bill authorizing a time extension was submitted in 1902 and passed routinely in 1903. President Roosevelt surprised and shocked everyone except the conservationists by vetoing the bill. In his veto message of March 3, 1903, President Roosevelt stressed the newly realized value of the water resources and expressed the belief that this income should help defray the cost of waterway development.

The third Muscle Shoals bill came under closer scrutiny because of growing public interest which was the result of strong efforts of the conservationists to focus attention on the implications of the Muscle Shoals project. Congress was wary so the Senate requested Secretary of War Taft to study Muscle Shoals. Taft, who personally favored private development, was unwilling to oppose the President so he passed the job on to the Army Corps of Engineers. The Corps' report stated unequivocally that the Federal Government had no interest in controlling nor any right to control power development on the Tennessee River.

As a result of the Corps' report, Congress passed the General Dam Act of 1906[17] which contained guidelines for private development of water power. The guidelines required Corps approval based on the principle of non-interference with navigation. The conservationists fought this act on the grounds that no charges for water use were included and that no recapture or time limit clauses were included.

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[16] Judson King, *The Conservation Fight From Theodore Roosevelt to the TVA* (Washington: Public Affairs Press, 1959), p. 8.

[17] General Dam Act of 1906 (34 Stat. 386).

In 1906, the Congress also formally recognized the feasibility of generating hydroelectric power at Bureau of Reclamation dam sites. This recognition also included the policy that revenues from power sales could help finance the increasingly costly irrigation projects.

> The Reclamation Service was constructing reservoirs to control water for irrigation, and had become aware of the possibilities of combining irrigation storage with hydroelectric power production. The Reclamation Service developed power at its first reservoir project, and Congress in 1906 authorized that agency to undertake its general development and sale.[18]

The authorization was included in the Town Sites and Power Act of 1906.[19] The 1906 act authorized sale of surplus power at reclamation dams and established the policy of giving preference to municipalities and cooperatives in the sale of the surplus power. This preference has since become general Federal policy.

The inadequacies of the General Dam Act and the agitation of the conservationists for more Federal control prompted President Roosevelt to create the Inland Waterways Commission in 1907. The Commission was given a mandate to work out a comprehensive plan for development of navigable river systems. The Commission report of 1908, which Roosevelt enthusiastically endorsed, is of great historical significance. The report strongly recommended the multipurpose concept of water development:

> Hereafter, plans for improvements of navigation in inland waterways should take into account the purification of the waters, the development of power, the control of floods, the reclamation of lands by irrigation and drainage, and all other benefits to be derived from their control.[20]

It claimed title of water resources for the people as a whole and attacked the monopoly interests with the plain implication that Federal control was necessary:

> We recommend that hereafter any plans for the use of inland waterways in connection with interstate commerce shall regard the streams of the country as an asset of the people, shall take full account of the conservation of all resources connected with running waters and shall look to the protection of these resources from monopoly and to their administration in the interests of the people.[21]

The report also defined the issues for the impending national battle over water power. It delineated six areas of conflict:

(1) National versus local jurisdiction;
(2) Federal versus State jurisdiction;
(3) Comprehensive development plans versus single-purpose planning;

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[18] Samuel P. Hays, *Conservation and the Gospel of Efficiency* (Cambridge: Harvard U. Press, 1959) p. 100.
[19] Town Sites and Power Act, 1906 (34 Stat. 116).
[20] Hays, p. 108.
[21] King, p. 15.

(4) Scientific planning versus pork-barrel planning;
(5) Public versus private control of water power; and
(6) Modern regional management versus the conflicting controls of competing agencies.

The report also outlined some principles for future power development. These principles were largely ignored until they were embodied in the Tennessee Valley Authority.

In line with President Roosevelt's previous veto of the Muscle Shoals project and the Inland Waterways Commission Report, President Roosevelt vetoed the Rainy River Project in 1908. That veto carried with it a twofold message. First, it established the principle that the Federal Government would no longer give power site grants in perpetuity. Second it laid down specific guidelines for future grants:

(1) The grant must be limited;
(2) There must be a recapture clause;
(3) There must be provisions for terminating a grant;
(4) There must be comprehensive planning; and
(5) Charges for water use must be paid.

President Roosevelt and the conservationists followed up the Inland Waterways Commission with a series of conferences designed to gather public support for the President's proposals.

In 1909, Roosevelt vetoed the James River (Mo.) Power Dam Project with a scathing anti-monopoly lecture to Congress. Roosevelt's last official conservation action took the form of a withdrawal of power sites amounting to about 1½ million acres on 16 Western rivers which he claimed were being temporarily withdrawn until Congress acted to protect the public interest.

While the conservationists were pushing for greater Federal control over water power development the private power interests were not idle. In 1907 the Muscle Shoals Hydroelectric Power Co. and the American Cyanamid Co. (American Cyanamid was engaged in the production of air nitrates used in fertilizers and munitions, a process requiring a vast amount of electricity) developed a plan to develop water power at Muscle Shoals calling for the Federal Government and the private interests to go into partnership. The partnership plan required strict delineation of costs and authority between the navigation (Federal) and power (private) functions of the proposed project.

The Corps undertook an investigation of the Muscle Shoals partnership plan at the request of the Secretary of War, and found that (1) the dams envisioned in the original proposal were inadequate, (2) the cost estimates were wrong, and (3) stated:

> In general, any partnership relation between the U.S. and a private corporation is necessarily to be closely scrutinized, as the results in the past have been that the Government, as a party to such agreements, has usually suffered.[22]

The proponents of the Muscle Shoals Project were sufficiently strong to survive the first Corps report. They were able to have another board created. This board, the Kingman-Langfitt Special Board, was ordered to produce two proposals for the Muscle Shoals project; one involving the partnership plan and the other for a Government owned and operated power project. The report, known simply as "No. 20" was a strong endorsement of the partnership plan. The plan did include a method for recapture of the site and also included charges for water use. The importance of this report lies in the fact that for the first time the Corps took a position on disposition. The Corps' endorsement of private power has remained unchanged since.

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[22] *Ibid.*, p. 36.

A minority report, however, pointed out that the report undervalued the returns which the Government could have received from power revenues of an all Federal project.

The Corps plan and the partnership concept were killed in 1916 and were not resurrected again until the Eisenhower Administration because a wary House Rivers and Harbors Committee voted against it. There are four reasons:

(1) The committee's prestige had been badly damaged by the embarrassing Senate defeat of their last Rivers and Harbors bill.

(2) The National Defense Act of 1916 contained authority for the President to locate a nitrate-power site.

(3) Public awareness about the value of water power was increasing, consequently public pressure for protection against the power industry was mounting.

(4) Close analysis indicated even to the layman that the stated primary purpose of the bill—aiding navigation—was a cover-up for the power and fertilizer implications.

The Taft Administration was noncommittal on the public versus private power question. The power interests sought and were able to reverse much of what Roosevelt had accomplished. Taft had doubted Roosevelt's authority to make withdrawals, consequently he requested and received such authority under the Picket Act of 1910.[23] Taft also proposed and got some minor revisions of the General Dam Act of 1906 with the General Dam Act of 1910.[24]

In response to the indifference of the Taft Administration, conservationists Charles Elliot and Gifford Pinchot set up the National Conservation Association and the National Conservation Congress. These groups actively sought to influence Government policy toward Federal control of water power.

Toward the end of the Taft administration, in an effort to pacify the more progressive members of his own party and thereby insure his own re-election, he appointed Henry L. Stimson as Secretary of War. Stimson convinced Taft to veto the Alabama Power Company's Coosa River Power Development bill on the grounds that it contained no provision for charges. This veto amounted to a complete reversal of Taft's position but it was an aberration rather than indicative of a new attitude.

A plan to allow San Francisco to develop a reservoir site in Yosemite Park at Hetch Hetchy Valley was proposed in 1913.[25] The plan called for a municipally owned power and water system. As a by-product of the project, flood control and irrigation waters would also be provided for the San Joaquin Valley. Reflecting the Federal Government's distrust of State regulatory commissions, section 6 of the bill specifically forbids the sale of power to electric companies. The power interests allied themselves with nature lovers, wilderness groups, and the States rights groups, and resorted to charges of socialism in an attempt to defeat passage. But the bill did pass.

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[23] Picket Act, 1910 (36 Stat. 847).

[24] General Dam Act of 1910 (36 Stat. 593)

[25] Hetch Hetchy Act, 1913 (38 Stat. 242).

The period between 1913 and 1920 marked a stalemate because of the inability of a shifting coalition of pro-public power interests to impose its desires upon a shifting coalition of pro-private power forces.

Infuriated by 5 years of bickering with no results and pressed by the necessities of war, President Wilson intervened by calling a special White House meeting which resulted in the establishment of a special House Water Power Committee and the House passage of a Wilson sponsored conservation bill in 1918. An immediate conference was called by the Senate and five months of argument behind closed doors resulted in a surprise compromise. The Senate had conceded Federal jurisdiction, charges for the use of the site, and a recapture clause but had effectively circumvented the intent of the bill by limiting the definition of navigable water in such a manner that the Federal Government would in effect have no control over water power development. The weary House passed the bill with the definition intact. The bill was to come up on the last day of the 1919 Senate session. In the final hours of the late night session, Senator Lafollette began a filibuster on it that killed the measure (and several other important bills on the calendar).

The original Wilson bill was re-introduced in 1920 and a compromise was reached. The Federal Water Power Act was signed on June 10, 1920.[26] The bill included victories for both sides. The conservationists had won:

(1) Federal jurisdiction over water power development;

(2) Clear title over water resources in the name of the American people;

(3) A Federal Power Commission consisting of the Secretaries of War, Agriculture and Interior;

(4) Limited 50-year leases;

(5) A clause giving the Federal Government authority to initiate water development on its own; and

(6) A broad definition of navigable water.

The private power people won:

(1) A formula for water charges which is based on administrative costs, not the market value of the water; and

(2) A recapture clause which makes recapture of sites almost impossible.

The lack of continuity and staff support for the initial Federal Power Commission's work presented difficulties and, in 1930, the Commission was reorganized into an independent regulatory agency headed by full-time commissioners.[27] The new Commission also was authorized to conduct the Electric Rate Survey and the National Power Survey to provide data for regulatory decisions.

In 1935, by Title II of the Public Utility Act the Commission was given jurisdiction over the interstate transmission of electric energy.[28] The Commission presently has broad regulatory authority over the interconnection, rate schedules, adequacy of service, and business practices of the electric utilities which engage in interstate transmission of energy.

Notably absent from this history of the 1889–1920 period is any record of Supreme Court action. Normally in a jurisdictional dispute between the States and/or individuals and the Federal Government the courts are called on to arbitrate. The Supreme Court did decide two significant cases but both went largely unnoticed by Congress or the President; consequently their historical significance is minimal.

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[26] Federal Water Power Act, 1920 (41 Stat. 1063).

[27] Act of June 23, 1930 (46 Stat. 797).

[28] Act of August 26, 1935 (49 Stat. 838).

U.S. v. *Chandler-Dunbar Water Power Company et al* (1913),[29] held invalid the ancient legal doctrine of riparian ownership of the potential power of water resources. Established Federal jurisdiction to lease or develop water resources in navigable rivers.

Utah Power and Light Co. v. *U.S.* (1917),[30] clearly established the jurisdiction of the Federal Government over its own land and water resources and emphasized the necessity of a definite leasing law.

In 1940 in the *New River* case the Supreme Court ended all doubts about the legality of Federal jurisdiction by affirming the doctrine laid down in *Dunbar-Chandler* by stating:

> In our view, it cannot properly be said that the constitutional power of the U.S. over its waters is limited to control for navigation . . . In truth the authority of the U.S. is the regulation of commerce on its waters. Navigability . . . is but a part of this whole. Flood protection, watershed development, recovery of the cost of improvement through utilization of power are likewise part of commerce control . . . Water power development from dams in navigable streams is from the public's standpoint a by-product of the general use of the rivers for commerce . . . the point is that navigable waters are subject to national planning and control in the broad regulation of commerce.[31]

The 1941 *Atkinson* case extended the Federal power jurisdiction to non-navigable tributaries of navigable rivers where it is essential to multipurpose development.[32]

After passage of the Federal Water Power Act in 1920, the Government slowly began to expand its role in power development. In 1922 the Colorado River Compact was signed making possible regional development of the waters of the Colorado River. Significantly the Compact (typical of the increasing number of such compacts) stated in Article IV that since the Colorado was non-navigable and that as a result of making it navigable, valuable domestic, agricultural, and power purposes would be diminished, that navigation was subservient to these purposes.

Subsequent to the Colorado River Compact, the first of a long line of Federally financed and operated multi-purpose projects was constructed. That project, the Boulder Canyon Project,[33] strongly endorsed by Herbert Hoover, serves as a model of multi-purpose construction.

In 1933, the Congress authorized the Tennessee Valley Authority (TVA).[34] TVA was the first development of a regional nature. But TVA is unique in that it is a wholly Federally owned corporation. The river basin development projects undertaken since (Missouri, Colorado, and Columbia) have not been completely analogous. The reasons for TVA's creation and special circumstances is discussed in detail in the section on National Security.

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[29] *U.S.* v. *Chandler-Dunbar Water Power Co.*, 1913 (229 U.S. 53).
[30] *Utah Power and Light Co.* v. *U.S.*, 1917 (243 U.S. 389).
[31] *U.S.* v. *Appalachian Power Co.*, 1940 (311 U.S. 377).
[32] *Oklahoma* v. *Atkinson*, 1941 (313 U.S. 508).
[33] Boulder Canyon Project Act, 1928 (45 Stat. 1057).
[34] Tennessee Valley Authority Act, 1933 (48 Stat. 58).

Franklin Roosevelt saw water development programs as an instrument to create jobs. Many of the programs, like Grand Coulee Dam,[34] which was undertaken in 1935 and is a key feature of the Columbia River System, were as much a product of the depression and FDR's plan to move the economy as they were a calculated effort to build a Federal power system.

Another aspect of Federal involvement in water power followed the public's shocked reaction to the floods which devastated much of the lower Mississippi Valley in 1927. The Flood Control Act of 1936 was the first formal recognition of Federal responsibility for flood control.[36] Out of this recognition the Corps has developed its current extensive flood control networks. The 1944 Flood Control Act made provisions for the sale by the Secretary of the Interior of hydroelectric power generated at the Flood Control projects.[37] As is the case with Reclamation power projects, the 1944 Flood Control Act contains the preference clause.

By 1961, the Federal Government was coming to the public recognition that power developed at Reclamation and Corps' dams was not of secondary importance but a primary purpose of many of the projects. The Bonneville Project[38] and the Colorado River Storage Project[39] had partially endorsed this new concept. In the 1964 Columbia River Treaty the Federal Government became more explicit:

> Recognizing that the greatest benefit to each country can be secured by cooperative measures for hydroelectric generation and flood control, which will make possible other benefits as well.[40]

Prior to this time the "other benefits" usually referred to power development. The significance of this statement lies in the fact that the Federal Government had in 60 years come nearly full circle in regard to its views on power development.

The Department of the Interior currently has the responsibility for marketing the hydroelectric power generated at dams which have been constructed by the U.S. Army Corps of Engineers in its flood control and navigation programs. The function is carried out through the Bureau of Reclamation and the Bonneville, Alaska, Southeastern and Southwestern Power Administrations. Each of these agencies operates a Federally-owned transmission line system, and as a major supplier of energy participates with the public and private utilities in regional power system planning, sharing of transmission facilities and exchanges of energy.

Current policy does not explicitly recognize a Federal "utility responsibility" to meet the energy demands of its customers beyond the availability of "surplus" power. The sheer magnitude of some Federal systems (Bonneville operates the largest electrical transmission system in the world and controls 50 percent of the energy in the Pacific Northwest) and the reliability problems facing many electric power systems seem likely to increase the Federal responsibility to share in the efforts to forestall critical shortages. The Bonneville Power Administration has already been empowered by the Congress to acquire power from non-Federal thermal-electric plants through complex exchange arrangements. The Bureau of Reclamation has direct financial interests in two thermal powerplants to provide pumping power for the Central Arizona Project and the Central Valley Project in California.

III. ECONOMIC DEVELOPMENT AND REGULATION

Some form of public control has traditionally followed the development of all natural monopolies and has origins in the common law. The gas and electric industries, both of which underwent tremendous growth in the early decades of this century, had the attributes of natural monopolies. It was apparent that the provision of more than one electric power or gas distribution system would be both wasteful and disruptive in most areas.

The Federal Government contented itself with leaving the burden of regulation to the State and local governments while it proceeded to exercise an indirect regulatory influence primarily in the form of grants or rights-of-ways over public domain. This was most significant in the case of the railroads and to a lesser degree in the case of the power industry.

As the public utilities grew in size and impact the call for State regulation increased. The Granger movements against the railroads were particularly significant in agitating for State regulations.

The legal status of Government regulation of private industry was tested in the 1877 *Munn* case.[1] Mr. Chief Justice Waite delivered the opinion of the court:

> We find that when private property is "affected with a public interest, it ceases to be juris private only".
>
> Property does become clothes with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use; but so long as he maintains the use, he must submit to the control.

In the *Peik* case[2] the Court asserted the right of the States to control (1) [2] commerce originating outside the State and bound for markets in the State, and (2) commerce originating inside the state and bound for markets outside. In other words to control interstate commerce. These cases temporarily provided the legal ground work for State control of public utilities.

Initial regulation of utilities by State and local government also tended to have promotional objectives. Exclusive franchises and rights-of-way were included in charters in return for certain guarantees of performance and as inducements to install service. Once established, however, the monopolies were in a position to impose discriminatory or excessive rates or to refuse adequate service to a captive clientele. The great size and the critical significance to society of the gas and electrical utilities invited the attention of the Federal Government, and ultimately Federal regulation, to protect the public interest. Regulation was viewed by its proponents as necessary both to protect the economically weak and unorganized and to correct failures of management in the regulated industries.

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[1] *Munn* v. *Illinois*, 1877 (94 U.S. 113).

[2] *Peik* v. *Chicago and Northwestern Ry.*, 1877 (94 U.S. 164).

In the 1886 *Wabash* case[3] the Supreme Court overruled the *Peik* decision and vested the authority to regulate interstate commerce in the hands of the Federal Government. The *Munn* and *Wabash* decisions clearly asserted the constitutional right of the Federal Government to regulate interstate commerce. The first real test of this position came in the 1934 *Nebbia* v. *New York* case[4] which unheld the Federal Government's right to regulate interstate commerce.

The first product of the new Federal responsibility was the Interstate Commerce Act passed in 1887[5] which dealt primarily with railroads. This jurisdiction was subsequently extended to oil pipelines by the Hepburn Act of 1906.[6] The Hepburn Act was originally intended to expand the I.C.C. authority over railroads only, but as a result of the monopolistic position and practices of Standard Oil a provision giving the I.C.C. jurisdiction over pipelines was included. The Hepburn Act labeled oil pipelines (gas and water pipelines were excluded) as "common carriers" and set down guidelines for their operation including service upon reasonable request, a published tariff scale, reasonable and non-discriminatory rates, participation of all companies in through routes and joint rates, maintenance of proper accounts, and finally similar anti-pooling and long-haul, short-haul provisions as for railroads. Subsequent legislation has provided for the regulation of consolidations and transactions among carriers.

Energy industry practices were partially responsible for and certainly subject to much anti-trust legislation. The more stringent antitrust laws came about as a result of dissatisfaction with the Sherman Antitrust law.[7] As evidence of this dissatisfaction all three major parties had antimonopoly planks in their platforms for the 1912 election. At the culmination of the "trust-busting era" the general feeling was that more specific laws condemning certain practices as unlawful or in restraint of trade were needed to make the antitrust efforts successful. In 1914 Congress passed enabling legislation for the Federal Trade Commission[8] and also passed the Clayton Act.[9] These laws were designed to create a commission empowered to prevent unfair methods of competition either specifically mentioned in the Clayton Act or in the broader language of the Federal Trade Commission Act. Furthermore the approach of the Federal effort was changed from the pattern of only responding to monopoly practices to adopting protective measures.

Probably no single factor has had as much impact on the philosophy of Federal management of economic affairs as the Great Depression in the early 1930's. Three important attitudes emerged out of the early 1930's experience:

(1) The system of competitive enterprise had failed badly and that excessive competition had been a causitive factor;

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[3] *Wabash, St. Louis, and P.R. Co.* v. *Illinois*, 1886 (118 U.S. 557);
[4] *Nebbia* v. *New York*, 1934 (291 U.S. 502).
[5] Interstate Commerce Act, 1887 (24 Stat. 379).
[6] Hepburn Act, 1906 (34 Stat. 584).
[7] Sherman Anti-Trust Act, 1890 (26 Stat. 209).
[8] Federal Trade Commission Act, 1914 (38 Stat. 719).
[9] Clayton Anti-Trust Act, 1914 (38 Stat. 730).

(2) The system of competitive enterprise was largely obsolete and that the road to the future would be paved with cooperation rather than competition; and

(3) The depression created whole classes who felt themselves aggrieved.

The "New Deal" response to the depression came in the form of the National Recovery Act (NRA).[10] The NRA sought to eliminate cutthroat competition and stabilize previously erratic industries. The *Schechter* case [11] declared most of the NRA programs unconstitutional. Congress circumvented the Supreme Court decision by passing specific statutes authorizing the programs. Some of these acts have indirect energy significance. For instance the Motor Carrier Act of 1935 [12] and the Civil Aeronautics Act of 1938 [13] were designed to stabilize the highly competitive truck and airline industries.

The depression philosophy produced several significant pieces of legislation. In 1935 the Federal Power Commission was given authority over interstate transmission of electric energy and over wholesale sales in interstate commerce. The investigatory and advisory functions of the Commission were extended to the whole electric energy industry in general. The Federal Power Act of 1935 [14] is very significant because no later amendments to it have either altered the basic structure or the powers of the Commission over the electric industry. Part II of the act gave the Commission:

1. Authority to order utilities to interconnect;
2. Authority over sale of facilities and mergers;
3. Authority over issuance of securities;
4. Authority over rates;
5. Authority to order "proper", "adequate", and "sufficient" service;
6. Authority to implement proper accounting methods; and
7. Authority to forbid interlocking directorates.

Another product of the depression philosophy was the Public Utility Holding Company Act of 1935.[15] This act supplemented existing authority for the Securities and Exchange Commission, newly created in 1934.[16] The act was designed to simplify the prevailing holding company structures through government ordered reorganization. The extent of consolidation in the utility industry had been underscored by a FTC report and a separate report submitted to the House Interstate and Foreign Commerce Committee in 1928. Testimony given between 1928 and 1932 indicated that:

1. In 1932, three electric power companies held 44.5 percent of the electric industry, the 15 largest companies held 76.4 percent, and less than 17 percent of the industries was in no way affiliated with the 15 largest.
2. In 1930, three companies owned 47.5 percent of the total natural gas pipeline mileage, the 14 largest companies held 80.3 percent.
3. In 1930 four companies owned 63.1 percent of all natural gas transmitted, the 12 largest companies—78.6 percent.

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[10] National Industrial Recovery Act, 1933 (48 Stat. 195).
[11] *Schechter Poultry* v. *U.S.*, 1935 (295 U.S. 495).
[12] Motor Carrier Act, 1935 (49 Stat. 543).
[13] Civil Aeronautics Act, 1938 (52 Stat. 973).
[14] Federal Power Act, 1935 (49 Stat. 847).
[15] Public Utility Holding Company Act, 1935 (49 Stat. 803).
[16] Securities and Exchange Commission Act, 1934 (48 Stat. 881).

4. Production was less concentrated in natural gas; in 1930 44 companies produced 66.4 percent of manufactured gas and 23.3 percent of natural gas and 29.3 percent of total gas production.

Another measure of the economic significance of the utility holding companies can be found in the behavior of their capital stock. Between 1924–1930 utility holding companies floated $5 billion worth of securities used for the most part to purchase operating companies. Insull's Middle West Utilities Company was selling for $57 in 1929 and 25¢ in 1932. The situation was similar for all of Middle West's subsidiaries. The impact was that 100,000 investors lost over $4 billion in Middle West securities alone. Associated Gas and Electric presented a similar picture. Two hundred fifty thousand investors saw their shares drop in value from $76.62 in 1929 to 62 cents in 1932. These figures would seem predictable during the general stock market crash. The public utilities companies, however, were actually able to survive in relatively good shape. In fact a SEC report stated:

> . . . electric and gas operating companies actually suffered less during the depression days of the early 1930's than any other substantial segment of our economy. The operating revenues dropped no more than about 15% from peak levels of the 1920's.[17]

The major complaints concerning the utility holding companies concerned promotion of inefficient consolidation, stock watering and capital inflation, manipulation of subsidies, and improper accounting practices.

Natural Gas Regulation

Initially the states regulated the natural gas industry just as they had done the electric industry. Controversy at the Federal level began during the depression era. As in the case of the electric industry, the sheer magnitude and growth of the natural gas industry soon outdistanced state control. As a result, Congress passed the Natural Gas Act in 1938.[18] The provisions included in the Natural Gas Act were originally designed to supplement state controls. This is underscored by section 1(b) of the act:

> The provisions of this chapter shall apply to the transport of natural gas in interstate commerce—but shall not apply . . . to the production or gathering of natural gas.[19]

Initially the provisions of this act were interpreted very conservatively. The FPC limited its regulatory activities strictly to transmission and sales for interstate commerce.

Following World War II rapid urbanization and the growth of natural gas demand, the introduction of new technology for natural gas use, advances in pipeline technology, and gas and fuel oil shortages led to the rapid expansion of the natural gas industry.

The major problem for Federal regulatory officials was adequately defining the jurisdictional boundaries between interstate and intrastate sales. The Supreme Court partially settled the question for them in the 1945 *Colorado Interstate Gas Co.* case[20] and the *People's Natural Gas Co.* case (1942).[21] The Court extended FPC authority over producers and gatherers because it contended that it was impossible to distinguish between intrastate and interstate activities. The FPC accepted this new responsibility reluctantly, refusing to regulate independent producers. Subsequently the Court ruled in the *Interstate Natural Gas of La.* case[22] that all producers of natural gas were subject to FPC control.

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[17] Securities and Exchange Commission 25th Annual Report, XVII, 1959.

[18] Natural Gas Act, 1938 (52 Stat. 821).

[19] *Ibid.*

[20] *Colorado Interstate Gas Co.* v. *FPC*, 1945 (324 U.S. 581).

[21] *People's Natural Gas Co. et al* v. *FPC*, 1942 (127 F. 2d 153).

The FPC resisted this broadened authority by issuing Order No. 139, in 1948 which endorsed a hands-off policy for arms length sales—sales from local, intrastate independent operators to the major (mostly interstate) natural gas companies. The FPC split on Order No. 139 with the majority fearing growing consolidation in the Natural Gas industry and feeling the need for conservation of gas reserve programs. The commission continued to drag its feet, applying the Court's decision to specific cases but issuing no across-the-board guidelines.

In 1950, the Congress passed the Kerr bill which sought to severely limit the FPC jurisdiction. President Truman vetoed the bill however, because he feared that such a move would serve to reduce competition even further in an already concentrated industry and he feared a commensurate concentration of gas reserve ownership.

In 1954 the *Phillips* case[23] was handed down by the Supreme Court. Phillips Petroleum, which gathered entirely in Louisiana but sold in other States, argued that its gathering operation was exempt from Federal control and the FPC had agreed (3 to 2). The Court disagreed and consequently ordered the FPC to regulate all natural gas clearly following into interstate commerce which meant by the Court's definition that all natural gas production and sales would be included.

The last attempt to prevent the Federal Government's regulation of natural gas prices was itself stopped when a reluctant President Eisenhower vetoed the Fulbright-Harris bill in 1956 because of allegedly improper lobbying in support of the measure by the natural gas industry.

Federal regulation of the natural gas industry is now an established fact. The continuing controversy today stems mainly from the still unresolved pricing practices of the FPC. The proper basis for pricing has been and continues to be subject to much debate.

Federal utility responsibility

By statute, Federal electric power is to be sold at the lowest rates consistent with sound business practice. This policy, along with the "preference" accorded to public utilities and cooperatives, was adopted to establish a competitive "yardstick" for private electric companies in the same regions. The yardstick policy is a corollary to direct Federal control. This dual Federal regulatory policy serves to regulate the electric utility industry directly through regulation and indirectly through competition.

Although the Federal Government has not and does not currently recognize an explicit "utility responsibility," the general philosophy that there is a governmental responsibility to insure the advantages of convenient energy led to direct Federal involvement in the rural areas which the non-Federal utilities were reluctant to serve. The Federal role was one of financial assistance through the Rural Electrification Administration.

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[22] *Interstate Natural Gas Inc. v. FPC*, 1947 (331 U.S. 682).

[23] *Phillips Petroleum Co. v. Wisconsin*, 1954 (347 U.S. 672).

Electricity became generally available in urban areas shortly after Thomas A. Edison built the first central station electric system in lower Manhattan in 1882. Despite advances in long-distance transmission technology, the electric power industry could foresee no profits from servicing rural areas and by 1929 only about one-tenth of the rural areas had electric service.

An immediate precursor of the REA program was the Pennsylvania Public Service Commission requirement specifying that a company operating in a rural area must extend its lines when there was at least one contracting consumer per mile, and that the company should pay the entire cost of the extension when there were three or more customers per mile. The successful Ontario Hydro Electric in Canada, which provided abundant low cost electricity to urban and rural areas, and the Tennessee Valley Authority Act of 1933, which authorized the TVA to construct transmission lines to serve "farms and small villages that are not otherwise supplied with electricity at reasonable rates" and to give preference in the sale of surplus power to "cooperative organizations of citizens or farmers" and certain public agencies, were also models.

In 1935, President Roosevelt signed Executive Order No. 7037 [24] establishing REA under the general authorization of the Emergency Relief Appropriation Act of 1935.[25] The program had the dual purpose of relieving unemployment as well as providing electricity to the rural areas. The construction of electric lines, however, called for skilled labor not found in rural areas. The power companies, which possessed the necessary expertise, showed little interest in obtaining REA funds either to relieve unemployment or to carry out rural electrification.

In 1936 Congress enacted legislation to create a Rural Electrification Administration as a lending agency on a continuing ten-year program.[26] The act, modeled after the Tennessee Valley Authority of 1933 gave preference to non-profit organizations such as cooperatives, utility districts, and municipalities which were willing to extend their systems into nearby rural areas. One hundred percent financing of new systems was authorized for maximum loan repayment periods of 25 years. Interest rates were determined by the average rate paid by the government on its own securities. In 1944, the act was amended,[27] establishing 2 percent interest for all outstanding and new loans and increasing the amortization period from 25 to 35 years. The amendment also continued the REA indefinitely.

The REA program has played a significant role in shaping the pattern of electric power systems in vast areas of the Nation. The pattern is an important attribute of the current electrical industry.

Tax Policy

One of the most significant impacts on national energy policy has been made by the depletion allowances affecting taxes on oil and gas income.

The corporation excise tax law of 1909 did not provide any deduction due to depletion of mineral reserves. Relying upon analogy to depreciation on capital investment, mine owners succeeded in 1913 in having enacted a tax deduction, "not to exceed 5 per centum of the gross value at the mine of the output for the year.[28] This provision was interpreted as also applying to oil and gas wells.

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[24] Executive Order No. 7037, 1935.

[25] Emergency Relief Appropriation Act of 1935 (49 Stat. 115).

[26] Rural Electrification Act, 1936 (49 Stat. 1363).

[27] Rural Electrification Act Amendments, 1944 (58 Stat. 739).

The Revenue Act of 1916 substituted "reasonable allowance" for the five percent deduction, and in 1918 a "discovery depletion" was added as an alternative to cost depletion. The Senate Report stated:

> The prospector for mines in oil and gas frequently expends many years and much money in fruitless search. When he does locate a productive property and comes to settle it, it seems unwise and unfair that his profit be taxed at the maximum rate as if it were ordinary income attributable to the normal activities of a single year. To stimulate prospecting and exploration, the committee has limited the surtax to 20 percent of the selling price. . . . /s/pecial provision is also made for increased depletion allowance in the case of such properties.[29]

A World War I development designed to provide a special incentive for risky exploration and discovery, the discovery depletion also served to assure that the discoverer of an oil field would not be taxed more than the purchaser of a proven field. Under the discovery-value method, the taxpayer was permitted to recover tax-free not only his actual investment, but the appreciated fair market value of the property at the time of discovery. Thus, if land on which one dollar had been spent prior to discovery of oil was worth ten dollars upon its discovery, the taxpayer was allowed a tax-free recovery of ten dollars of discovery value rather than one dollar of cost value.

A 1921 amendment limited the annual allowance to the net income from the discovered property—thus denying it as a deduction against other income—while a 1924 amendment further limited the deduction to 50 percent of the net income from the property. Difficulties in determining what constituted a discovery and how to determine "discovery value," began in 1926 to lead to a gradual abandonment of discovery-value depletion.

Depletion allowances based on a percentage (27 percent) of annual income, as first introduced in 1926, were limited to oil and gas. Later they were extended to other minerals, and in each case replaced discovery-value depletion. Subsequent attempts were made by President Truman in 1950 and Senator Humphrey in 1951 to cut the oil depletion allowance to 15%. The controversy around the oil depletion allowance was based on the conflict between the oil interests claims that oil depletion allowances were needed to keep profits high enough to stimulate exploration and the claims of the opposition that most oil depletion allowances went to royalty owners who do no exploration work and that regardless of tax benefits American oil producers have not been able to cope with wartime emergencies. Oil interests aided by President Eisenhower were able to retain the depletion allowances intact in the 1954 Internal Revenue Code.[30] With the enactment of the 1954 Code, discovery-value depletion disappeared from the law. The depletion allowance was reduced to 22 percent by the Tax Reform Act of 1969.[31]

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[28] Revenue Act of 1913 (38 Stat. 169).

[29] S. Rep. No. 617, 65th Cong., 3d sess., December 6, 1918.

[30] Internal Revenue Code, 1954 (68A Stat.) Ch. 1, Subch. I (Natural Resources).

[31] Tax Reform Act of 1969 (83 Stat. 487).

The Federal Government exercises some indirect regulatory functions through its control of the transportation industry and by virtue of its own purchase requirements. Truck transport is regulated through the Motor Carrier Act.[32] Air transport is regulated through the Civil Aeronautics Act,[33] the Federal Airport Act,[34] and the Federal Aviation Act.[35] Although barge and ship transport is not as closely regulated, the Federal government does have authority under the Merchant Marine Act as amended [36] to provide subsidy financing for construction of oil tankers and LNG transport vessels. Auto transportation is controlled through Federal aid to highway programs including the Highway Trust Fund and Interstate System [37] and the ABC Road Program.[38] The Federal government itself utilizes energy purchased by the General Services Administration.[39] This is obviously not an inclusive list but it serves to illustrate the point that indirectly the Federal Government has a major impact on energy consumption rates and patterns. It is significant that the policies governing these activities were adopted with little regard for energy policy.

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[32] Motor Carrier Act, 1935 (49 Stat. 543).
[33] Civil Aeronautics Act, 1938 (52 Stat. 973).
[34] Federal Airport Act, 1946 (60 Stat. 170).
[35] Federal Aviation Act, 1958 (72 Stat. 731).
[36] Merchant Marine Act Amendments of 1970 (84 Stat. 1018).
[37] Federal-Aid Highway Act, 1958 (72 Stat. 89).
[38] Federal Road Act, 1916 (39 Stat. 355).
[39] Federal Property and Administrative Services Act, 1949 (63 Stat. 377).

IV. NATIONAL SECURITY POLICY

National Security Policy has had an impact on current energy policy in three major areas: oil policy, the Tennessee Valley Authority (TVA), and the Atomic Energy Commission (AEC).

Security concerns have quite naturally been of major importance to Americans since the founding of the first colony. These considerations continued after American Independence. Early evidence of national security considerations related to the public domain and natural resources can be traced to the reservation of lead deposits used in munitions.[1] As more steam vessels came into Navy use, the Navy's demand for coal increased. Consequently the Federal Government gave preference to the Navy for coal mined on certain public lands.[2] These policies eventually evolved into the Strategic and Critical Materials Stockpiling Program.[3] Included among the minerals stockpiled is oil. The two World Wars and the Korean conflict dramatized the security needs for petroleum products. Today's mechanized armed forces are almost totally dependent on petroleum products.

Security concerns about oil really began in 1904 when the U.S. Navy Fuel Oil Board recommended that all American war vessels be converted to fuel oil. The Navy was hesitant. It sponsored two major studies on the desirability of petroleum powered vessels. These studies point up the ease of handling, efficiency, and economy of petroleum powered vessels. By 1914 Secretary of the Navy Daniels reported that all American naval warships were converted to oil. The Navy's demand for oil increased from 360,000 barrels per year in 1912 to 6,000,000 barrels per year in 1919.

In 1909 Secretary of the Interior Ballinger warned President Taft that dire consequences would befall national security should oil shortages occur and stated the need for Government (Navy) oil reserves. By 1914 it became apparent the naval reliance on oil was increasing and that supply was decreasing. Price also entered into the picture. The Navy's fuel oil bill had risen 50 percent between 1912–1913. The result was that President Taft and later President Wilson reserved more than 3 million acres of oil land and later oil shale.[4] The most famous of these withdrawals were Elk Hills and Buena Vista Hills (1912) and the ill-fated Teapot Dome (1914). Congress officially authorized the Naval Petroleum Reserve Program in 1920.[5]

After the first reserves were established much consideration was given to the possibility of government production of these fields and also to the possible establishment of government refining capacity. The initial success of Federal regulatory efforts in the oil industry allayed the fears that prompted the discussion of Government production. Consequently no action was ever taken on the proposal.

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[1] Act of March 3, 1807 (2 Stat. 448).
[2] Preference of Army and Navy to Purchase Alaskan Coal, 1908 (35 Stat. 424).
[3] Strategic and Critical Materials Stockpiling Act of 1939 (53 Stat. 811), as amended 1946 (60 Stat. 596).
[4] Withdrawal of Naval Petroleum Reserves (E.O. unnumbered).
[5] Naval Petroleum Reserve Act (41 Stat. 812).

Subsequent to World War I, the United States believed that eventually the bulk of this country's petroleum requirements would have to be furnished through imports. By 1921, imports accounted for 28 percent of domestic demand. The discovery of large reserves (most notably the huge East Texas oil field) during the late 1920's resulted in a net domestic surplus; and, in order to protect domestic production, import duties were imposed in 1932 on imported crude oil, residual fuel oil, gasoline, motor oil, and lubricating oil. "Conservation laws" were also enacted by the major oil-producing States restricting the maximum rate of production from each well. The United States, during the 1930's, imposed mandatory quantitative restrictions on imports limiting these to approximately 4½ percent of 1932 levels.

The United States reached a peak as an exporter in 1938. Large discoveries of crude oil in the Persian Gulf countries during the 1930's, coupled with increases in domestic demand, resulted in a reversal of this trend until in 1948 the United States again became an importer. After World War II economic considerations at home and important foreign political considerations stemming from the Cold War were contributing factors to this situation.

Security policy also played a substantial role in Truman's fight to secure the tidelands and Outer Continental Shelf lands for the Federal Government.

In July 1954 President Eisenhower created an Advisory Committee on Energy Supplies and Resources Policy which reported that using imports threatened the national security and recommended incentives for new domestic exploration. Section 7 of the Trade Agreements Extension Act of 1955,[6] required the Director of the Office of Defense Mobilization (ODM) to advise the President whenever the Director had "reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security." Pursuant to this section, the Director of ODM requested companies to limit their imports in August 1955. Following the 1956 Suez Crisis, a Voluntary Oil Import Program was initiated following the recommendation of a special Presidential Committee to Investigate Crude Oil Imports. The Department of the Interior administered the program until early 1959, when it had become evident that the program was not effective. On March 10, 1959, the President issued Proclamation 3279[7] carrying into effect a recommendation of the Special Committee to Establish a Mandatory Oil Import Program.

The authority under which the President acted was section 7(b) of the Trade Agreements Extension Act of 1955[8] which authorized restrictions on imports threatening to impair the national security after an opinion by the Director of the Office of Defense Mobilization (later the Director of the Office of Emergency Planning (OEP)) that national security was threatened and a finding of fact by the President. The provision, as amended, is presently section 232 of the Trade Expansion Act of 1962.[9]

The Mandatory Oil Import Program has two primary functions: to regulate the degree of import restrictions by means of various quota levels and to allocate permitted imports among domestic claimants.

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[6] Section 7, Trade Agreements Extension Act of 1955 (69 Stat. 162).
[7] Adjusting Imports of Petroleum and Petroleum Products (Presidential Proclamation No. 3279).
[8] Section 7(b), Trade Agreements Extension Act of 1955 (69 Stat. 162).
[9] Trade Expansion Act of 1962 (76 Stat. 877).

The Proclamation created an Oil Import Appeals Board in the Department of the Interior with power to modify or grant allocations and to review any revocation or suspension of an import license. The Mandatory Oil Import Program is administered by the Office of Oil and Gas which reports to the Assistant Secretary for Mineral Resources, Department of the Interior.

Following Reorganization Plan No. 1 of 1973,[10] which abolished the OEP, the oil import policy functions of OEP were transferred to the Department of the Treasury, with the Deputy Secretary of the Treasury becoming Chairman of the Oil Policy Committee. Management of the import program remained within the Department of the Interior.

The Department of Commerce under the authority of the Trading With the Enemy Act of 1917 [11] and under Executive Order Number 11387 (1968),[12] acting through the Office of Foreign Direct Investments has jurisdiction over and can regulate U.S. companies engaged in seeking energy sources outside of the United States.

Atomic Energy

The history of the World War II development of nuclear energy is well known. In 1939 a conference of theoretical physicists led by Niels Bohr and Enrico Fermi discussed the possibility of nuclear fission. Later that year, motivated by the fear that Germany would achieve success in developing a new superweapon, Dr. Albert Einstein wrote President Franklin D. Roosevelt and informed him that such a weapon was possible. Subsequently in 1940 the Manhattan Engineer District, a supersecret organization of scientists and engineers was formed to work on the project. By 1942 they had achieved the world's first sustained chain reaction. Facilities were constructed at Oak Ridge (to provide fissionable material), Hanford (for conversion to plutonium), and at Los Alamos (to construct weapons). On July 16, 1945, the first bomb was exploded. August 6 and 8 saw the use of the weapon on Hiroshima and Nagasaki.

Almost immediately after the use of the atomic bomb in 1945, the question of the appropriate post-war control of nuclear energy was raised. Only two months after the Hiroshima bombing, President Truman urged Congress to establish an Atomic Energy Commission and to state an atomic energy policy. The principal issue in the subsequent debate concerned the extent of continued military control over atomic energy.

The Atomic Energy Act of 1946 [13] established a civilian Atomic Energy Commission (AEC) with control over the policy aspects of atomic energy development. The policy statement of the act recognized a Federal role in supporting nuclear research and development and continued Federal control over production, ownership, and use of fissionable materials. The fissionable mineral resources of the public lands were reserved for the use of the United States and the Commission was authorized to arrange for the purchase and processing of nuclear fuels.

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[10] President's Re-Organization Plan No. 1 of 1973.

[11] Trading with the Enemy Act (40 Stat. 411).

[12] Executive Order 11387 (1968).

[13] Atomic Energy Act of 1946 (60 Stat. 755).

The initial AEC policy toward civilian programs was intended to stimulate private partnership in the development of the nuclear industry. The AEC set up a special reactor development program in 1948 and announced a 5-year development program for civilian applications in 1953. However, until the mid-fifties the concerns of the Cold War overrode civilian considerations of the program.

The first electric power generated by a nuclear reactor was achieved at the National Reactor Test Site in Idaho in 1951. The first commercial reactor was started in 1953 at Shippingport, Pa.

The rapid growth planned in the nuclear power industry by the private power companies pointed up the need for a new law governing licensing and regulation of private power reactors. The old private power vs. public power debate sprung up in 1953–54. The struggle was resolved by compromise with the public power advocates winning regulation by the Federal Power Commission of power produced, retention of patent rights by the Federal Government, and the public power preference clause. The private power interests won the right to develop nuclear energy for civilian uses. These compromises were enbodied in the 1954 Atomic Energy Act [14] which provided major impetus for private power development. The AEC was vested with the licensing and regulatory power over the new industry. In 1955 the A.E.C. set up the Cooperative Power Reactor Demonstration Program to help spur private investment.

In 1964 the Federal Government sought to remove the AEC from the costly requirement of having to stockpile fuels for all domestic purposes and to speed up development by private industry by increasing the industries' profitability. This was accomplished by the Private Ownership Act [15] which allowed private ownership of uranium and curbed unrealistic low prices by ending the Federal subsidy program for reactor fuels.

A strong measure of Federal dominance over the production of nuclear fuels and of research was retained for obvious security reasons, and the dominance and leadership of the Atomic Energy Commission over the nuclear industry remain pervasive in every aspect of planning and management.

Safety controls over nuclear powerplants were among the earliest manifestations of a Federal responsibility for the environmental impacts of the energy system.

TVA

During the emergency of World War I, concerns over the Nation's dependence upon foreign nitrates for explosives resolved a monumental political struggle between the advocates of public and private power and let to the construction of a federally-owned hydropower and nitrate production complex at Muscle Shoals on the Tennessee River. The project was initiated under the authority of the National Defense Act of 1916,[16] although the major power producing feature, the Wilson Dam, clearly would not be in operation in time for war production. The potential advantages of cheap public power and post-war production of nitrogen fertilizers were more or less overt motives for the development.

The appropriateness of such public ownership remained in controversy, but in 1933 the depression sentiment and the strength of the

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[14] Atomic Energy Act of 1954 (68 Stat. 919).

[15] Private Ownership Act of 1964 (78 Stat. 602):

[16] National Defense Act of 1916 (39 Stat. 166).

Roosevelt Administration made possible the ratification and expansion of the concept with the establishment of the Tennessee Valley Authority.[17] The TVA is a comprehensive regional development scheme based upon Federal energy production.

The national security value of the TVA and the Columbia River System was underscored during the Second World War when it became apparent that private utilities were not able (because of the long lead time necessary) to respond in an emergency to the vast needs of defense production.

The keystone of the TVA concept was the development of cheap hydropower. Construction of a steam generating plant (the only other coal-fired steam generating plant the TVA owned was the original at Muscle Shoals) was necessitated in 1940 by the huge increase in demand for power generated by the construction of the AEC's newly constructed Oak Ridge Plant. After the war, TVA embarked on an ambitious progfam to build more coal-fired steam generating plants. This program was necessitated because of the increasing demand for electric service and the fact that all available damsites had been used. In the ensuing battle the TVA argued that it had an implicit "utility responsibility" in the Tennessee Valley and that if it were to be able to fulfill the original yardstick goal set forth in the original act it would have to expand along with the private utility industry. The TVA eventually won its point and by 1953 had constructed six coal-fired steam generating plants. The major reasons for the TVA victory were not those relied upon by the TVA but rather the urgent defense needs of the Cold War and the simple economics of the situation. Today TVA is an integrated system of steam generating plants and hydroelectric facilities. As the demand for service increases, however, so does dependence on coal-fired steam generating plants increases.

A number of major assaults on TVA (the most famous of which was the Dixon-Yates affair) have been made but none have been able to seriously impede TVA's growth. Although the TVA concept has never been replicated in the same form, the massive systems of Federal dams and transmission lines which have been constructed in the Columbia, Colorado, and Missouri River basins have, through low-cost hydropower, similarly influenced the social and economic development of the regions.

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[17] Tennessee Valley Authority Act, 1933 (48 Stat. 58).

V. HEALTH, SAFETY, AND ENVIRONMENTAL MANAGEMENT

Health and safety were early concerns in Federal energy policy, particularly in relation to coal mine health and safety. The coal industry has had a history of disasters and occupational illness which has led to continuing Federal involvement.

Efforts began in Congress as early as 1865 to create a Federal Mining Bureau which would have had responsibilities for improving the health and safety aspects of mining activities. In 1891, a Territorial Mine Inspection Act was passed to provide for safety inspections by Federal appointees of coal mines in the territories.

The Bureau of Mines was established in the Department of the Interior in 1910[1] in the aftermath of a series of coal-mine disasters. The Bureau was empowered to investigate methods of improving mining operations, especially the safety aspect. However, actual authority to make mine inspections of mines and publicize the findings was not granted to the Bureau until 1941.[2]

During the labor disputes of 1946 and 1947, when the Federal Government operated many of the Nation's coal mines, a Federal Mine Safety Code was agreed upon between the Secretary of the Interior and the President of the United Mine Workers. It became a guideline for Federal inspectors. The death of 119 miners in the West Frankfurt, Illinois, explosion in 1951 gave impetus to the enactment in 1952 of legislation making compliance with the Code mandatory and authorizing inspectors to close unsafe mines in some instances.[3] The continued occurrence of major disasters pointed up deficiencies in the law and led to a series of amendments. Public awareness of the health aspects of coal mining, particularly the extent of disabilities from pneumoconiosis or "black lung" disease, also increased.

In 1968, the Farmington, West Virginia, disaster, which killed 78 men, provided the incentive for the passage of the Federal Coal Mine Health and Safety Act of 1969.[4] The new act conveyed broad new regulatory powers for standard-setting and inspection and established a new Federal responsibility in workmen's compensation as it applies to black lung disabilities. Research authority for programs dealing with health and safety aspects was expanded and stepped up. Also, penalties for lack of compliance were expanded and stiffened.

Since occupational health and safety continues to be a high Federal priority, Federal policing of the coal industries' health and safety efforts is likely to continue. These factors can have significant economic impact on the industry, and as coal's importance in the energy picture increases in the near future, the whole energy situation could be affected.

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[1] 36 Stat. 369 (1910).

[2] Federal Coal Mine Safety Act. 55 Stat. 177 (1941).

[3] Coal Mine Safety Act, 66 Stat. 692 (1952).

[4] 83 Stat. 742 (1969).

Environmental management on the part of the Federal Government can be traced back to its concerns in conservation. A strong association between the early conservation movement and antimonopoly interests existed as far back as Theodore Roosevelt's Administration, and conservation has long been an important aspect of Federal attitude toward the energy industries in both the mineral resources and hydropower areas. Until recently, however, Federal policy decisions were predominantly concerned with the economic and financial aspects of the industries. The importance of environmental concerns were not recognized. An Oil Pollution Act in 1924,[5] for example, was not concerned about the effect of oil discharges on the environment of the coastal waters but with its effects on navigation.

Under virtually all circumstances "the extraction of fuel from the earth and of energy from fuels has significant environmental impact."[6] In the late 1960's, with the emergence of a strong Federal regulatory role in water and air pollution control, and later through the pervasive influence of the National Environmental Policy Act (NEPA)[7] environmental policy began to have significant impact upon the energy industries' evolution.

Water and air quality legislation has developed from rather modest programs of Federal grants in 1948 for water[8] and in 1955 for air[9] to increasing Federal involvement in establishing criteria and standards and enforcing Federal regulations in certain instances. An increasing Federal role seemed inevitable because of the interstate nature of many pollution problems and because of inability or unwillingness on the part of some States to deal with the problems. These programs were initially administered by the Public Health Service (PHS) in the Department of Health, Education, and Welfare. In 1965, a separate Federal Water Pollution Control Administration was created,[10] and it was transferred to the Department of the Interior 5 months later.[11] The National Air Pollution Control Administration grew out of the National Center for Air Pollution Control in a 1968 reorganization of HEW.

Other environmental programs which affected energy were carried on in the Bureau of Solid Waste Management, the Bureau of Water Hygiene, and the Bureau of Radiological Health, all in HEW, and in the Atomic Energy Commission under its Environmental Radiation Protection Standard Setting functions and through the activities of the Federal Radiation Council.

The lack of coordinated administration of environmental programs and a belief that more vigorous enforcement of environmental regulations would result from independence led to the consolidation of the above programs and others within the Environmental Protection Agency (EPA) in 1970.[12]

While EPA is essentially an environmentally oriented agency, it impacts heavily on fuels and energy not only through the constraints of administration of air, water, and radiation standards on power plants, but also in more positive ways such as R. & D. of solid waste as fuel and in combustion cycle research.

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[5] 43 Stat. 604 (1924).

[6] "The Potential for Energy Conservation," an interagency staff study under the leadership of the Director of the Office of Emergency Preparedness, October 1972, p. 87.

[7] 83 Stat. 852 (1970).

[8] Water Pollution Control Act, 62 Stat. 1155 (1948).

[9] 69 Stat. 322 (1955).

[10] Water Quality Act, 79 Stat. 903 (1965).

[11] Reorganization Plan No. 2 of 1966.

[12] Reorganization Plan No. 3 of 1970.

Enactment of the National Environmental Policy Act (NEPA) in 1970 [13] granted all Federal agencies a mandate to consider the environmental impact of their actions. The act and its requirement for public statement of the environmental impacts of proposed Federal actions (with the statement's adequacy subject to challenge in the courts) has proven to be a significant extension of the authority of such prime energy agencies as the FPC, AEC, and the Department of the Interior. The act also established the Council on Environmental Quality (CEQ) as an advisory group in the Executive Office of the President. Because many energy issues have strong environmental considerations, CEQ has acquired a coordinating role in a number of energy related studies, such as studies of the impacts of surface mining regulations and the requirement for a Federal deep-water port policy.

NEPA has been strengthened by several recent court decisions which have interpreted the language of the Act very broadly. The result has been an expansion of Federal authority, but questions, many as yet unresolved, have arisen over the proper administration of the authority granted by the judicial interpretation of NEPA.

The decision of the District of Columbia Circuit Court of Appeals in *Calvert Cliffs' Coordinating Committee* v. *AEC* (1971)[14] had a profound effect on AEC. The court ruled that under NEPA the Commission was charged with examining the nonradiological environmental impacts of nuclear power facilities, particularly thermal pollution, before issuing leases. Questions arose concerning AEC's ability to determine such effects, and debate continues as to what nonradiological effects are significant enough to examine.

In another D.C. Court of Appeals decision in January 1972, (*Natural Resources Defense Council* v. *Morton*), the Department of the Interior was denied the right to sell new leases on the Outer Continental Shelf off eastern Louisiana until a reasonable discussion of alternatives to leasing on the Outer Continental Shelf was included in the environmental impact statement. The court added that "discussion of alternatives may be required even though the action required lies outside the Interior Department."[15]

Since automobiles consume more than 55 percent of the energy produced for transportation and transportation accounts for about one-fourth of all energy used in this country, the auto emissions standards set by Congress in the Clean Air Amendments of 1970 [16] are having and will continue to have significant implications for energy. First, the act granted Federal preemption of the regulation of auto emissions standards. The act also set strict emissions standards which must be met by major auto manufacturers by 1975. The Court of Appeals for the D.C. Circuit very recently decided to reopen hearings for GM, Ford, Chrysler, and International Harvester on their inability to meet the emissions standards before the deadline.[17] This decision revives the possibility of an extension of the deadline, a revision in the standards, or both.

In addition, the Clean Air Amendments authorized EPA to set and enforce standards for sulfur dioxide and other pollutants from stationary sources. These standards have had a very direct impact on energy.

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[13] See Footnote No. 7.

[14] 449 F.2d 1109 (D.C. Cr. 1971);

[15] 458 F.2d 1143 (D.C. Cir. 1972);

[16] 84 Stat 1676 (1970).

[17] *International Harvester, et. al.* v. *Ruckelshaus*, 4 ERC 2041 (1973);

Many powerplants were forced to burn fuels with a sulfur content much lower than those fuels they were previously using. Not anticipating the huge increase in demand for fuels with low sulfur content, suppliers were unable to meet the needs of all power facilities, particularly this past winter. Many plants had to ask for a temporary relaxation of the standards. There is sure to be an economic impact reflecting higher fuel and production costs. This situation illustrates the need for better analysis, planning, and resolution of environmental-energy tradeoff decisions.

A case recently heard in the Supreme Court (U.S. v. Students Challenging Regulatory Agency) [18] will decide the extent to which an agency must apply the provisions of NEPA. The specific case involved is a railroad rate increase by the Interstate Commerce Commission (ICC) for which ICC issued an environmental impact statement stating simply that the rate increase had no environmental impact. The Commission was challenged on the grounds that under NEPA the agency was at least required to discuss the reasons why there was no impact. A clearer interpretation of NEPA should come out of this case will have definite implications for agencies which must file environmental impact statements.

Another Supreme Court decision not directly related to NEPA had an effect on Federal responsibilities in the area of nuclear energy. In the case, *Northern States Power Company* v. *Minnesota* (1972),[19] the lower court rulings, which granted the Federal Government preemption over the states in the regulation of radioactive releases by nuclear power plants, were upheld. In this case the State regulations happened to be more stringent than the AEC standards. This decision clearly extended Federal authority in the environmental management of this energy area but left questions concerning the role of the States.

As these cases point out, the Federal environmental management role has been increasing. Correspondingly, this management is having an increasing impact on energy. Since this role is still evolving, it is impossible to determine the eventual overall implications on energy policy. Clearly, judicial interpretations of NEPA have led to administrative, organizational and planning problems which must be dealt with in considering future environmental and energy policy.

Oil and natural gas pipeline safety regulations to a degree have an effect on both environmental and human health and safety factors. The Federal Government moved into this area of safety regulation only recently. ICC has had regulatory authority over pipelines since its inception. However, this regulatory power had no safety considerations. Growing environmental awareness and concern for safety prompted the Congress to vest responsibility for pipeline safety standard-setting and enforcement in the Department of Transportation (DOT) through the Department of Transportation Act (1966),[20] and the Natural Gas Pipeline Safety Act (1968).[21] The DOT Act also transferred ICC authority over the safe surface transport of fuels to DOT. Safe fuel movement then has become another Federal concern in energy policy influenced by Federal safety and environmental management.

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[18] 41 Law Week 3279 (1972), Supreme Court docket no. 72-562, oral argument heard 2-26-73.
[19] 405 U.S. 1035 (1972), 447 F.2d 1143 (8th Cir. 1971)
[20] 80 Stat. 931 (1966).
[21] 82 Stat. 720 (1968).

VI. RESEARCH AND DEVELOPMENT

Research and development in energy areas have evolved in much the same way as general national scientific policy. When public issues or projects have arisen that have necessitated scientific investigation the Federal agencies involved have carried out their own research with very little concern for cooperative effort among agencies. There have been minimal attempts to centralize research efforts in broad policy areas except to consider short-term problems.

There are actually two threads to be traced concerning research and development history in the Federal Government in order to understand where the Government stands today with regard to energy research policy. First, there are certain agencies with energy-related activities which have undertaken research when it was required for the administration of their responsibilities. Second, intermittant efforts have been made since the Nation's inception to establish a scientific organization in the Government which would have authority to support and coordinate all important research and development necessary for the formation and implementation of public policy.

Most of the agencies to be discussed in the first category have been discussed with previously but will be referred to here with respect to the development of their R & D functions.

The U.S. Geological Survey was established in 1879 for the "classification of the public lands and the examination of the geological structure, mineral resources, and the products of the national domain."[1] The survey was a civilian culmination of various surveys which had been predominantly military in origin and personnel. The beginning of Westward expansion, which dates back to the Lewis and Clark Expedition and the Louisiana Purchase, created the need for competent scientific surveying and exploration. The Lewis and Clark Expedition, which secretly had the claims of empire as a foundation, set a precedent when Congress appropriated Army funds for the expedition.[2] President Jefferson insured military preeminence in exploring and surveying the West by establishing the Military Academy at West Point and the Corps of Engineers in 1802. Even the Coast Survey, authorized in 1807 under Treasury Department direction, was removed from civilian control by an amendment in 1818 that required only military or naval officers be employed. In 1831, a Topographical Bureau was established separately from the Corps of Engineers. In 1838, responsibilities were clarified by assigning all defense construction to the Corps and all civilian improvement projects to the Topographical Bureau. The Topographical Engineers took the lead in Western surveying, particularly for the railroads. However, the Bureau lost its identity during the Civil War and ceased to function as an entity separate from the Corps of Engineers. After the war the emphasis of the surveys changed. In 1867, an expedition to do the geological survey of the fortieth parallel was staffed by the Corps of Engineers but directed by a civilian. The area to be surveyed was a strip of land 100 miles wide through Colorado to California. Since the road through the area had been surveyed and was under construction, the primary purpose of this survey was to determine the natural resources of the area with a particular view toward mining possibilities.

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[1] 20 Stat. 394.

[2] A. Hunter Dupree, *Science in the Federal Government* (Cambridge, Massachusetts: Harvard University Press, 1957), p. 26.

Soon, more extensive surveys of the West initiated by the Army Corps began to include more civilians. Lieutenant George M. Wheeler became the dominant figure in the Army surveys. With the passage of the Homestead Act the General Land Office in the Interior Department became interested in obtaining more scientific data about the West and was instrumental in initiating a civilian survey in 1873 under the direction of Ferdinand V. Hayden. About this same time John Wesley Powell got enough help from the Army to start independent surveys. Conflicts among Wheeler, Hayden and Powell as well as between the military and civilians arose. The ensuing political battle eventuated in the backdoor creation of the Geological Survey in the Interior Department through an amendment to an appropriation act.[3] Powell became its first director. Dupree sums up the evolution that brought about the Geological Survey:

> With the firm establishment of the Survey, a scientific function of the Government which had begun with Lewis and Clark completed its metamorphosis from a series of ad hoc military expeditions to a permanent civilian agency.[4]

The Geological Survey soon became the Government's strongest research agency. It first concerned itself with land classification and irrigation surveys. However, as the mining industry began to attract much attention at the turn of the century because of its industrial, conservation, and safety problems, the Survey was the first agency to tackle mining problems. In 1904, Congress appropriated funds to the Survey for testing the coals at the Louisiana Purchase Exposition in St. Louis and in 1907 appropriated further funds to investigate mine explosion. By 1909, programs for fuels testing, structural materials testing, and safety investigations had an appropriation of over $500,000. Since this area of applied research in mining had taken the Survey so far from its original interests, it appeared logical to create a new bureau to deal strictly with mining problems. Since the creation of the Bureau of Mines, the role of the Geological Survey in energy research has declined, but it retains important R. & D. activities now centering on the development of geothermal power and of the resources of the Outer Continental Shelf.

The Bureau of Mines, which was created in the Department of the Interior in 1910,[5] assumed the research and development activities of the Geological Survey as they related to mining. The Bureau's organic act was rewritten in 1913 to characterize the range of its activities as "mining, metallurgy, and mineral technology."[6] New programs were developed to reflect this expanded role. A Petroleum Division was created in 1914 to provide production research for a booming industry which was doing little research on its own. Investigations into nonferrous metals were begun. An experiment station system soon evolved through cooperation with a number of universities. With the Nation's entry into the First World War in 1917, investigations into gas in connection with mine explosions were transformed into efforts to develop gas masks to combat poison gas. Helium research associated with the construction of dirigibles was also conducted.

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[3] Dupree, p. 209.
[4] Dupree, p. 214.
[5] 36 Stat. 369 (1910).
[6] 37 Stat. 681 (1913).

The Bureau of Mines controls the largest budget for energy research and development with the exception of the Atomic Energy Commission. The Bureau has been authorized over the years to continue investigations into the production and utilization of coal resources, including bituminous, anthracite, and lignite coal as well as peat. Other programs include research into synthetic liquid fuel production, mining health and safety, petroleum extraction technologies, oil shale, and goethermal energy.

The Office of Coal Research was created by the Coal Research Act of 1960 as a line research agency. [7] All of its research is performed by contracts with public and private organization. The Office does not issue grants, maintain its own laboratories, or perform "in house" research. It merely coordinates a variety of coal research activities and works closely with the Bureau of Mines in its coal research. Among its main concern at present are the development of coal gasification and liquefaction technology. In 1971, the President's Message to Congress on providing clean energy stressed the need for swift commercial development of clean-burning gas from coal.[8] This gave new significance to coal gasification and the activities of the Office of Coal Research.

The history of the Atomic Energy Commission has previously been discussed. The AEC administers the largest component of Federal funding for energy R & D (about 75 percent of the Fiscal Year 1973 budget). Since the Manhattan Project the AEC has developed programs in nuclear gas stimulation, civilian nuclear power development, nuclear materials process development, fusion and laser research, electrical power research, and thermal pollution control. The President's 1971 Clean Energy Message also emphasized the need to perfect the liquid metal fast breeder reactor for use in electric power production by 1980.[9]

Much pollution research is having and will continue to have tremendous significance for the energy situation. The Tennessee Valley Authority is engaged in research in pollution control technology for sulfur oxide removal. The Environmental Protection Agency is conducting research into air pollution control technology as well as thermal pollution control.

In considering the Federal role in the energy system, it is also necessary to understand the evolution of a central science organization in the Government. Energy production is a very significant technological concern. It has become evident that energy research in the future will have to be assigned high priority among overall basic and applied research efforts if future energy needs are to be met with a minimum of environmental insult. Therefore, it will be impossible to consider energy R & D strategy apart from the Government's central science organization in the future.

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[7] 74 Stat. 336 (1960).

[8] House Document 92-118 (1971).

[9] *Ibid.*

Thomas Jefferson and John Quincy Adams early expressed concern over the Federal Government's relation to the nation's scientific institutions. However, no specific policy came out of their interest. In 1829, an unknown British chemist named James Smithson bequeathed his inherited fortune "to the United States of America, to found at Washington, under the name of the Smithsonian Institution, an Establishment for the increase and diffusion of knowledge among men." [10] What the Institution's relation to the Government would be was debated extensively. Finally, in 1844, Congress agreed on the establishment of the Smithsonian and left open the molding of its exact nature to the board of regents. The Institution's first secretary, Joseph Henry, saw its potential as a research-supporting organization. Although the Smithsonian did assist many research efforts in the 1850's, it was not influencing science policy in the Government, especially with its meager budget.

The need for a central science organization within the Federal Government increased in the 1850's as the Government became involved in more scientific activities, including the extensive surveys of the West. In 1851, the American Association for the Advancement of Science was formed by scientifically oriented people in the Government. Although the AAAS had no formal connection with the Government, it served as a forum for scientists to express their views on public policy. However, its efforts were interrupted by the Civil War.

Nothing significant evolved from the Civil War or from the years following until the beginning of the Progressive Era. Right after the war, the National Academy of Sciences was formed in an attempt to organize scientific advice to the Government. During the late 1800's, the Department of Agriculture took the lead in research activity but had no centralizing effect. Theodore Roosevelt, the first President since John Quincy Adams with a scientific background, encouraged a wider appreciation of the use of science in the public interest. Conservation as an issue spawned new research in the Departments of Agriculture and the Interior.

The necessity for military applications of science and technology brought about by World War I resulted in the creation of the first truly central research organization in the Government. In 1916, a National Research Council was created specifically to conduct and coordinate all research for the war effort. In the decade following World War I, however, efforts to centralize faltered. Rather, a growing interrelationship among government, industry, and university research developed. The Depression and the New Deal periods were almost totally concerned with reviving the economy. Therefore, little thought was given to science policy or organization.

World War II provided greater impetus for the creation of a basic science organization. The National Defense Research Committee was created in 1940 to bring the entire scientific resource of the country to bear on weapons research.[11] Problems occurred when the fruits of research proved difficult to implement in the battlefield. As a result, President Roosevelt established the Office of Scientific Research and Development (OSRD) by Executive Order in 1941[12] to bring theory to bear on practical needs. OSRD and the Manhattan Engineer District which coordinated nuclear weapon development were the two major research and development entities of the war.

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[10] Dupree, p. 66.
[11] E. O. 8458, 5 F. R. 2435 (1940).
[12] E. O. 8807, 6 F. R. 3207 (1941).

Dr. Vannevar Bush, the wartime director of OSRD submitted a report in 1945 at the request of the President, outlining his proposals for continuing national science investigations. In the report, "Science—the Endless Frontier," Bush suggested the creation of "a National Research Foundation to support research and education in the sciences and dissemination of scientific information." [13] His proposals formed a basis in the establishment of the National Science Foundation, created by the National Science Foundation Act of 1950.[14]

The National Science Foundation (NSF) was given broad authority in determining national science policy and aiding basic and applied research. NSF continues to have the main role in Federal support of basic science.

In 1957, President Eisenhower created the President's Science Advisory Committee in the White House to bring scientific advice to bear on the Presidential level.[15] President Kennedy established the Office of Science and Technology in the Executive Office of the President in 1962.[16] The Office was to help the President formulate and review science policy in the Federal agencies. This move took away some of the authority of NSF. However, President Nixon has proposed the abolition of the Office of Science and Technology and the transfer of all its functions to the Director of NSF.[17] This plan, which has now taken effect, has enhanced the role of NSF as the central science organization in the Federal Government for the near future. With the emergence of the energy crisis, the NSF has been placing increasing emphasis upon energy-related research and will probably become a significant agency in energy organization.

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[13] William R. Nelson (ed.), *The Politics of Science* (New York Oxford University Press, 1968), p. 56.
[14] 64 Stat. 149 (1950).
[15] Nelson, p. 57.
[16] President's Reorganization Plan No. 2 (1962).
[17] President's Reorganization Plan No. 1 (1973).

APPENDIX J.—SUMMARY OF SELECTED ENERGY-RELATED LEGISLATION SINCE 1920

I. OIL, GAS, AND NONNUCLEAR FUELS

OIL

Mineral Leasing Act of 1920.
Trans-Alaska Oil Pipeline Act of 1973.
Petroleum Marketing Practices Act of 1978.
Crude Oil Transportation Systems of 1978.
Hazardous Liquid Pipeline Safety Act of 1979.
Naval Petroleum Reserves Acquired by DOE in 1977.

GAS

Natural Gas Act of 1938.
Natural Gas Policy Act of 1978.
Natural Gas Pipeline Safety Act of 1968.
Alaska Natural Gas Transportation Act of 1976.

OIL AND GAS FUEL USE RESTRICTIONS

Powerplant and Industrial Fuel Use Act of 1978.
Energy Supply and Environmental Coordination Act of 1974.
Repeal of Fuel Use Act of 1978.

SYNTHETIC FUELS, METHANOL, CLEAN COAL, AND BIOMASS AND RENEWABLE ENERGY SOURCES

Energy Security Act of 1980.
Defense Production Act of 1950.
Synthetic Fuels Corporation of 1980.
Clean Coal Technology Program of 1986.

II. ELECTRIC AND NUCLEAR ENERGY

ELECTRIC

Federal Power Act of 1935.
Public Utility Holding Company Act of 1935.
Public Utility Regulatory Policies Act of 1978.
Pacific Northwest Electric Power Planning and Conservation Act of 1980.
Alaska Federal-Civilian Energy Efficiency Swap Act of 1980.

NUCLEAR

Atomic Energy Act of 1954.
Uranium Mill Tailings Radiation Control Act of 1978.
West Valley Demonstration Project Act of 1980.
Low-Level Radioactive Waste Policy Act of 1986.

Nuclear Regulatory Commission of 1974.
Nuclear Waste Policy Act of 1982.
Price-Anderson Amendment Act of 1988.

III. ENERGY CONSERVATION, ORGANIZATION, LOW-INCOME ASSISTANCE, AND RELATED MATTERS

CONSERVATION AND RELATED MATTERS

Energy Policy and Conservation Act of 1975 (includes Strategic Petroleum Reserve).
Automobile Fuel Efficiency Standards of 1979.
Emergency Energy Conservation Act of 1979.
Energy Conservation and Production Act of 1976.
National Energy Conservation Policy Act of 1978.
National Appliance Energy Conservation Act of 1987.
National Appliance Energy Conservation Amendments of 1988.

ADMINISTRATION AND ORGANIZATION

Federal Energy Administration Act of 1974.
Energy Reorganization Act of 1974.
Department of Energy Organization Act of 1977.

LOW-INCOME ASSISTANCE

Low-Income Home Energy Assistance Act of 1981.

IV. OTHER

Outer Continental Shelf Lands Act of 1953.
National Environmental Policy Act of 1969.
International Energy Agreement of 1974.
Federal Nonnuclear Energy Research and Development Act of 1974.

APPENDIX K.—ENERGY POLICY FOR THE YEAR 2000 AND BEYOND

The history of the Committee on Energy and Natural Resources has reflected the history of the Nation from 1816 onward as we grew from 17 to 50 States in the Union. In the past the Committee's concerns matched the national concerns of the day. As we have approached the last decade of the twentieth century and looked forward to the twenty-first century, the Committee has necessarily expanded the scope of its view to a global level in addressing national issues within the Committee's jurisdiction.

Our Nation's energy security, concerns over global warming, and protection of the environment that sustains all life on Earth are matters that are inextricably entertwined on a global basis. As we join with the Administration in establishing a comprehensive national energy policy for the future, our Committee will have to continue this global outlook in the third century of our Nation's existence.

J. BENNETT JOHNSTON, *Chairman,*

Committee on Energy and Natural Resources, United States Senate, 100th Congress, 2d session, 1988.